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Application Number	09/765,533
Filing Date	January 19, 2001
First Named Inventor	Helen Hardman Howlett-Campanella
Art Unit	3764
Examiner Name	Lori Baker Amerson
Attorney Docket Number	HOWL-38283

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
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<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Scott W. Kelley KELLY BAUERSFELD LOWRY & KELLEY, LLP
Signature	
Date	10/06/2003

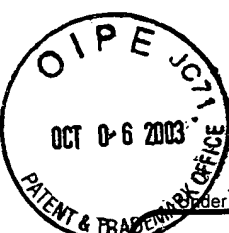
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 165.00

Complete if Known

Application Number	09/765,533
Filing Date	January 19, 2001
First Named Inventor	Helen H. Howlett-Campanella
Examiner Name	Lori Baker Amerson
Art Unit	3764
Attorney Docket No.	HOWL-38283

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

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FEE CALCULATION

1. BASIC FILING FEE			
Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims -20** = X =

Independent Claims -3** = X =

Multiple Dependent =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1202 18	2202 9	Claims in excess of 20	
1201 86	2201 43	Independent claims in excess of 3	
1203 290	2203 145	Multiple dependent claim, if not paid	
1204 86	2204 43	** Reissue independent claims over original patent	
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2) (\$)			

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES					
Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051 130		2051 65		Surcharge - late filing fee or oath	
1052 50		2052 25		Surcharge - late provisional filing fee or cover sheet	
1053 130		1053 130		Non-English specification	
1812 2,520		1812 2,520		For filing a request for <i>ex parte</i> reexamination	
1804 920*		1804 920*		Requesting publication of SIR prior to Examiner action	
1805 1,840*		1805 1,840*		Requesting publication of SIR after Examiner action	
1251 110		2251 55		Extension for reply within first month	
1252 420		2252 210		Extension for reply within second month	
1253 950		2253 475		Extension for reply within third month	
1254 1,480		2254 740		Extension for reply within fourth month	
1255 2,010		2255 1,005		Extension for reply within fifth month	
1401 330		2401 165		Notice of Appeal	
1402 330		2402 165		Filing a brief in support of an appeal	165.00
1403 290		2403 145		Request for oral hearing	
1451 1,510		1451 1,510		Petition to institute a public use proceeding	
1452 110		2452 55		Petition to revive - unavoidable	
1453 1,330		2453 665		Petition to revive - unintentional	
1501 1,330		2501 665		Utility issue fee (or reissue)	
1502 480		2502 240		Design issue fee	
1503 640		2503 320		Plant issue fee	
1460 130		1460 130		Petitions to the Commissioner	
1807 50		1807 50		Processing fee under 37 CFR 1.17(q)	
1806 180		1806 180		Submission of Information Disclosure Stmt	
8021 40		8021 40		Recording each patent assignment per property (times number of properties)	
1809 770		2809 385		Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770		2810 385		For each additional invention to be examined (37 CFR 1.129(b))	
1801 770		2801 385		Request for Continued Examination (RCE)	
1802 900		1802 900		Request for expedited examination of a design application	
Other fee (specify) _____					
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3) (\$) 165.00					

SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	Scott W. Kelley	Registration No. (Attorney/Agent)	30,762
Signature		Telephone	818/347-7900
		Date	10/06/2003

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By: Scott W. Kelley October 6, 2003
Scott W. Kelley, Reg. No. 30,762

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Helen Hardman Howlett-Campanella

Serial No. 09/765,533

Filed: January 19, 2001

For: YOGA MAT WITH BODY CONTACT
PLACEMENT INDICIA

Group Art Unit: 3764

Examiner: Lori Baker Amerson

Docket No. HOWL-38283

10/10/2003 DTESSEM1 00000044 09765533

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Madam:

APPELLANT'S BRIEF (37 C.F.R. § 1.192)

This Appellant's Brief is submitted in triplicate, pursuant to the provisions of 37 C.F.R. §1.192(a), together with the requisite fee in the amount of \$165.00, pursuant to 37 C.F.R. §1.17(c).

I. REAL PARTY IN INTEREST

Helen Hardman Howlett-Campanella is the real party in interest in this Appeal and is the inventor.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals nor interferences that will directly affect, or be directly affected by, or have bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

There are twenty two claims pending in the application. Claims 1 and 3-23 are pending and presented on appeal. These claims are reproduced in the Appendix attached hereto. As set forth in the Office Action mailed February 26, 2003 (attached in the Appendix as "A"), claims 1-22 were rejected for obviousness under 35 U.S.C. §103. In a Supplemental Office Action mailed May 14, 2003 (attached in the Appendix as "B"), claim 23 stands rejected for new matter under 35 U.S.C. §112(1) and claims 1 and 3-23 were rejected for obviousness under 35 U.S.C. §103. The Office Actions erred in rejecting claim 2 as claim 2 had previously been cancelled without prejudice.

IV. STATUS OF AMENDMENTS

Applicant filed a Response (attached hereto as Appendix "C") on August 14, 2002 to the Office Action dated June 14, 2002. The Response added claim 23 and the written description was amended to include subject matter shown in the figures as originally filed. The claims reproduced in the Appendix hereto reflect entry of this amendment.

V. SUMMARY OF THE INVENTION

A fundamental part of yoga, in its simplest form, is moving one's body in seven possible one-movement directions and in varying combinations of those movements. For example, the body (1) forward bends, (2) backward bends, (3&4) twists right and left, (5&6) bend from side to side right and left, and (7) extends, stretching from head to toe. An exemplary combination is a twisting forward bend. Another important dimension or aspect of Hatha Yoga is that the postures are either symmetrical (both sides of the body doing the same thing, example: sitting with both legs in forward bend) or asymmetrical (for example, sitting in forward bend with one leg bent into the thigh of the straight leg). In a Hatha Yoga practice session, the bodies are moved in as many different directions and in different combinations as equally and to the best of the practitioner's ability as possible.

Yoga postures are based and taught that the postures are built from the foundation up, analogous to the building of a house. The definition of "foundation" for this purpose is the part of the body touching the floor. There are basically two kinds of foundations: 1) down on the floor, for example, prone, supine or sitting; and 2) up off the floor, for example standing, kneeling on hands and feet, hands and knees, headstand, elbow stand, handstand. There are over one thousand yoga postures. Standing balancing poses need a good foundation so that the practitioner doesn't fall down. A short flexible person's feet would be wider apart in his or her stance than a practitioner who is less flexible and a tall person's feet would be even wider apart in his or her stance.

Yoga poses are held for a good length of time, sometimes one minute or more. Being stable is important and again the foundation is a good start. Like a gymnast on a balance beam, alignment brings stability, example: standing with the legs wide apart in forward bend over right leg, the back leg needs to be in line with the right leg not crossed midline (off the balance beam). Exact placement of the feet changes from teacher to teacher and pose to pose depending on purpose and ability.

The present invention resides in a yoga mat which allows a practitioner to properly align his or her body in a variety of poses as well as tracking his or her flexibility progress. The yoga mat generally comprises an elongated mat having an upper and a lower surface. In a particularly preferred embodiment of the invention, the elongated mat has a rectangular configuration. A symmetrical body placement guide is imprinted on the upper surface of the mat and configured to aid the yoga practitioner to properly align the practitioner's body during yoga postures. The body placement guide includes a patterned design defining a longitudinal axis which substantially extends the length and bisects the upper surface of the mat. The pattern design also defines a transverse axis bisecting the longitudinal axis. The longitudinal axis and transverse axis define four equal quadrants. Each quadrant is adjacent to two other quadrants. The pattern design in each quadrant is a mirror image of the pattern design of the two adjoining quadrants.

The pattern design typically includes indicia positioned from either the longitudinal or transverse axis at a forty-five degree angle. This indicia preferably comprises a line extending from either the longitudinal axis or transverse axis at the forty-five degree angle.

The patterned design may define multiple segments of equal area that are parallel to the transverse axis. The pattern design may also define multiple segments of equal area parallel to the longitudinal axis.

The patterned design includes step indicia within each quadrant. The step indicia may be created by intersecting lines that form a ninety degree angle.

VI. ISSUES ON APPEAL

A. OBJECTIONS TO THE DESCRIPTION AND CLAIMS

The issue on appeal is whether the subject matter of the description and pending claim 23 relating to markers 54, 56 and 58 includes new matter.

B. CLAIM REJECTIONS UNDER 35 U.S.C. §112

The issue on appeal is whether the subject matter of pending claim 23 includes new matter.

C. CLAIM REJECTIONS UNDER 35 U.S.C. §103

The issue on appeal is whether the subject matter of the pending claims 1 and 3-23 are obvious in view of the single reference Dionne et al. (U.S. Patent No. 5,645,494).

VII. GROUPING OF CLAIMS ON APPEAL

The new matter rejection is directed to independent claim 23.

The obviousness rejections are directed to claims 1-23 (although claim 2 was previously cancelled without prejudice); claims 1, 11, 18 and 23 being independent. Claims 3-10 depend from claim 1; claims 12-17 depend from claim 11; and claims 19-22 depend from claim 18.

The claims of the groups listed above do not stand or fall together as the claims are believed to be separately patentable. Each of the dependent claims are patentable at least because each depends, directly or indirectly, from an allowable independent claim. Additionally, each of the dependent claims is patentable because it recites a combination of features not shown in the prior art applied by the examiner, including:

- i. the indicia comprises a line extending from the longitudinal axis at a forty-five degree angle;
- ii. the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle;
- iii. the indicia comprises a line extending from the transverse axis at a forty-five degree angle;
- iv. the patterned design defines multiple segments of equal area parallel to the transverse axis;
- v. the patterned design defines multiple segments of equal area parallel to the longitudinal axis;
- vi. the patterned design includes step indicia within each quadrant;
- vii. the step indicia are created by intersecting lines forming a ninety degree angle;
- viii. the elongated mat has a rectangular configuration;

- ix. the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines.
- x. the patterned design defines multiple segments of equal area parallel to the transverse axis;
- xi. the patterned design defines multiple segments of equal area parallel to the longitudinal axis;
- xii. the patterned design includes step indicia within each quadrant;
- xiii. the step indicia are created by intersecting lines forming a ninety degree angle;
- xiiii. the elongated mat has a rectangular configuration;
- xv. the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines;
- xvi. the patterned design defines multiple segments of equal area parallel to the transverse axis;
- xvii. the patterned design defines multiple segments of equal area parallel to the longitudinal axis; and
- xviii. the step indicia are created by intersecting lines forming a ninety degree angle.

VIII. RECORD OF INTERVIEWS

The Applicant's response to the Examiner's Interview Summaries of the telephonic interviews of April 9, 2003 (attached as part of "B") and July 8, 2003 (attached as "D") follow hereinafter. Pursuant to MPEP Section 713.04, a complete written statement as to the substance of any face-to-face, video

conference, electronic mail or telephone interview with regard to the merits of an application must be made of record in the application, whether or not an agreement with the examiner was reached at the interview. See 37 CFR 1.133(b), MPEP § 502.03 and § 713.01. As no Response has yet been made to the last Office Action, the substance of those interviews, from the point of view of the Applicant's attorney are as follows:

On April 8, 2003, a telephonic Attorney Interview was conducted between Examiner Amerson, the Applicant and the Applicant's Attorney. Several issues were discussed during the interview, including the new matter issue, and the Dionne reference as applied to the claims.

At the beginning of the Interview, the Examiner admitted that the Dionne reference did not teach any 45 degree angle-related features. While the Examiner did not explicitly state that the claims were now allowable as each of the independent claims included a 45 degree angle-related feature, the Examiner did state that anything with a 45 degree angle-related feature overcame the Dionne reference.

The Applicant stressed that the language of the claims specifically states that the claimed subject matter involves a yoga mat, and pointed to a claim limitation that the Examiner stated she had given no patentable weight to (i.e., that there was a body placement guide on the upper surface of the mat that was configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures). The Applicant reminded the Examiner that Dionne et al. was directed to a golf mat and not a yoga mat; that the Examiner had explicitly admitted in the Office Action of May 14, 2003 that Dionne does not disclose a mat configured to aid a yoga practitioner's body during yoga

postures. Applicant's Attorney stated that one of ordinary skill in the art, in this case a yoga practitioner, would not be looking to a golf mat to solve problems in the yoga area. Applicant pointed out that the golf mat was directed only for standing and swinging of a golf club and that a yoga practitioner would be well aware that yoga involves all parts of the body as yoga involves many different positions. Applicant's Attorney reminded the Examiner that a standing position is only one part of yoga and even then, the structure of golf mat of Dionne would not be appropriate for even standing yoga exercises. Applicant's Attorney stated that the golf mat disclosed in Dionne was not suitable for use as a yoga mat and particularly pointed out various sections of the Dionne specification, including the figures, which showed that the structure and surface of the Dionne golf mat is not suitable for yoga.

With respect to the issue of new matter, the Examiner took the position that the circular indicia identified as markers 54, 56 and 58 constituted new matter even though the circular indicia was shown in the figures as originally filed. During the interview, Applicant's Attorney reminded the Examiner that MPEP Section 2163.06 states that "information contained in any one of the specifications, claims or drawings of the application, as filed, may be added to any part of the application without adding new matter" and that the circular indicia later identified as markers 54, 56 and 58 were shown in the figures of the application, as originally filed. However, the Examiner stated that she believed the circular indicia were new matter because they were not included in the written description when the application was filed.

During the course of the interview, both the Applicant and Applicant's Attorney reiterated several times that the circular indicia later identified as

markers 54, 56 and 58 were part of the original subject matter as shown when the application was filed in both the Provisional and Utility Applications. The Examiner indicated that she was uncomfortable with the term 'marker' to describe the circular dots shown in the figures as originally filed. Applicant's Attorney informed the Examiner that the term 'marker' had been taken from the Marquez patent (US Patent No. 6,387,013) (hereinafter "Marquez"). The language had been taken from Marquez because Applicant had desired to provoke an interference with Marquez and so had added claim 23 (the basis of the new matter rejection) and amended the written description to include the circular indicia shown in the figures as originally filed. The Examiner stated that she was passing the new matter issue onto her Supervisory Primary Examiner (SPE), Nicholas Lucches, for additional comment and review.

During the interview, Applicant's Attorney pointed out to the Examiner that, according to the MPEP 2163.06, if the Examiner insisted on maintaining an objection to the alleged introduction of 'new matter' under 35 U.S.C. 132, the Examiner should have also rejected claim 23 under 35 U.S.C. 112, first paragraph. The Examiner agreed that this was correct procedure and stated that she would be sending out a supplemental office action consistent with the interview discussion.

The Examiner admitted that there appeared to be circular indicia at various intersections of lines in the figures and that circular indicia were shown in the figures of the provisional and utility applications as originally filed, but she stated that she and her SPE were not comfortable with citing those circular indicia as markers. The Examiner took the position that the broadest reasonable interpretation of the claims would result in a structural limitation.

Applicant's Attorney pointed out to the Examiner that this interpretation was not consistent with the specification as the Applicant was not claiming a rod or staff or some other three dimensional feature on the surface of the yoga mat; that the term 'marker' referred only the circular indicia and that applicant was using the same terminology employed by Marquez so that the language would be consistent should an interference be declared between Marquez and the instant application.

Applicant's Attorney contacted Examiner Amerson on June 18, 2003 with regard to the Supplemental Office Action received from her and inquired as to whether the Examiner's SPE had discussed the new matter issue with her. Applicant's Attorney was informed that her SPE had gone on vacation and would not return until early July. When inquiry was made as to the status of the new matter issue, Examiner Amerson stated that her SPE had still not discussed the issue with her. Applicant's Attorney informed the Examiner that he had spoken with her SPE on April 23, 2003 and that her SPE had stated that he was going to review the figures of the non-provisional application in view of the circular indicia. Applicant's Attorney relayed to the Examiner that her SPE had asked why the circular indicia had not been included in the written description, as filed, and made part of the original claims. Applicant's Attorney responded that the description had been amended and claim 23 added in order to provoke an interference with Marquez, but that the circular indicia described as markers 54, 56 and 58 were always shown in the figures of the provisional and non-provisional applications as originally filed. SPE Lucchesi again acknowledged that the features were shown in the figures but questioned whether or not there was an intent to have circular indicia in the figures.

Applicant's Attorney replied that the language of the MPEP did not require any showing of 'intent'; only that if the features were shown in the figures, as originally filed, then the Applicant was entitled to describe the features in the written description and include the features in claims. Applicant's Attorney SPE Lucchesi ended the conversation on a positive note, and SPE Lucchesi said he would be getting back to Applicant's Attorney in a few days.

Applicant's Attorney informed the Examiner that he had still not heard from her SPE and that on May 21, 2003, Applicant's Attorney had again contacted her SPE regarding the status of his review of the new matter issue and with respect to the recently received Supplemental Office Action (See "B"). Applicant's Attorney informed the Examiner that he was confused by the Supplemental Office Action as Applicant's Attorney had been under the impression that a Supplemental Office Action would not be sent out until her SPE had a chance to review the new matter issue again. Applicant's Attorney informed the Examiner that her SPE had stated that he had no idea why the Examiner had sent out the Supplemental Office Action prior to discussing the new matter issue with him or why the Examiner had not changed the rejections of the claims in light of what she had stated in the Interview (see "B") regarding the Dionne reference failing to disclose indicia at forty five degree angles. Applicant's Attorney commented that this seemed wasteful of the time and money of all parties involved and only delayed the prosecution of the instant application as it had been expected that the Examiner would either allow the claims as overcoming the Dionne reference or would provide a new rejection which included a reference disclosing a forty five degree angle feature. In this case, the Examiner merely maintained the same rejection she had provided in

the previous Office Action citing the Dionne reference; ignoring the admissions made in the Interview. Applicant's Attorney informed the Examiner that her SPE had stated he would discuss the art-based rejections with the Examiner in light of her comments during the Interview and that he would also address the new matter issue with the Examiner at that time.

The Examiner stated that she would leave a message for her SPE to discuss these issues with her when he returned (a copy of an email sent by Examiner Amerson to SPE Lucchesi is attached in the Appendix as "E"). Applicant's Attorney asked why the Examiner had not changed her rejections of the claims based on Dionne after having admitted that Dionne did not disclose forty five degree angle-related features as it seemed proper procedure for the Examiner to either reformulate her rejections or allow the claims in the Supplemental Office Action in view of her admission during the Interview. The Examiner told Applicant's Attorney to simply bring up that argument in a Response to the Supplemental Office Action.

On July 8, 2003, the Examiner contacted Applicant's Attorney and informed him that she had consulted with her SPE and that the new matter and art-based rejections were being maintained for the reasons outlined in the Interview Summary sent out that same day (See "D"). Applicant's Attorney stated that the new explanation provided for Dionne allegedly disclosing a forty-three degree feature seemed based solely on highly improper hindsight since Dionne makes absolutely no mention or suggestion of indicia positioned forty five degrees from the longitudinal axis or latitudinal axis or lines extending therefrom at forty five degree angles.

IX. ARGUMENTS - REJECTIONS UNDER 35 U.S.C. §112

The Office Action dated May 14, 2003 rejected claim 23 under 35 U.S.C. §112, first paragraph, on the basis that the plurality of markers 54, 56 and 58 (line 16) were allegedly not described in the specification nor the subject matter pertaining to the plurality of rectangles separated into six non-overlapping sets in line 12-13.

The Office Action failed to provide any additional explanation for rejecting the circular markers as new matter nor did the Office Action address the issues regarding the alleged new matter that were discussed during the interviews discussed above, including the acknowledgment by the Examiner and SPE that the circular indicia or 'markers' were shown in the figures as originally filed.

It can only be surmised that the Supplemental Office Action failed to provide any of the rationales advanced by the Examiner during the Interview because such rationales are in direct contradiction of the requirements of the MPEP. The Examiner failed to address the fact that the Examiner admitted that the circular indicia identified as markers 54, 56 and 58 appear in the figures of both the provisional and non-provisional applications.

Attached hereto in the Appendix as "F" and "G" are the Declarations of the Applicant, Helen Hardman Howlett-Campanella, and Aleen Ferris, the draftsperson who created the figures filed in the non-provisional application. The declaration of Ms. Campanella attests to the circular indicia as always having been part of the figures of the provisional and non-provisional applications and the affidavit of Ms. Ferris attests to her having prepared the figures filed in the non-provisional application and that the circular indicia

appearing at certain intersections of lines in the figures were not accidental drawing by-products of several lines intersecting. Ms. Ferris does specifically point out an error made by Applicant's attorney in amending Figure 8, and proposed correction is included.

MPEP Section 2163.06 states that "information contained in any one of the specifications, claims or drawings of the application, as filed, may be added to any part of the application without adding new matter." The circular indicia or 'markers' of claim 23 were shown in the figures of the application as originally filed and are therefore not new matter and may be added to the written description and claims. Under proper circumstances, drawings alone may provide a written description of an invention as required by 35 USC 112. Drawings constitute an adequate description if they describe what is claimed and convey to those of skill in the art that the patentee actually invented what is claimed. See *Cooper Cameron Corp. v. Kvaerner Oilfield Prods., Inc.* 291 F.3d 1357; 62 U.S.P.Q.2D 1846 (2002).

During the telephonic interviews, as outlined above, the Examiner admitted that she saw the circular indicia in the figures of the application as filed, but indicated that she was 'uncomfortable' with the term 'marker' to describe the circular indicia. Applicant explained that the term 'marker' had been taken from Marquez (U.S. Patent No. 5,645,494, attached in the Appendix as "H") against which claim 23 of the Application had been added in order to provoke an interference.

The meaning of the term 'marker' used in claim 23 is apparent from the descriptive portion of the specification. The term 'marker' is not being used in any manner as to give it a special meaning or a meaning repugnant to the

usual meaning of the term. See MPEP 608.01(o) [Basis for Claim Terminology in Description]. The term 'marker' is consistent with the language used in Marquez to describe circular indicia.

Furthermore, the *American Heritage® Dictionary of the English Language: Fourth Edition (2000)* defines 'marker' as

NOUN: 1. One that marks or serves as a mark, as: a. A bookmark. b. A tombstone. c. A milestone.
... 5. Sports a. A device, such as a line, stake, or flag, set on a playing field and showing the playing or scoring position.

The term 'mark' is defined as:

NOUN: 1. A visible trace or impression, such as a line or spot.
... 12. An object or point that serves as a guide.

Based upon the foregoing definitions, the manner in which the term 'marker' is used in the specification, and the source of the term (i.e., Marquez), it is clear that the term properly describes the circular indicia shown in the figures, especially in view of the intent to keep the language of claim 23 consistent with Marquez. It is completely consistent with the specification to describe the body placement guide as providing various marks/markers for a yoga practitioner to use to align their body during yoga exercises.

The Applicant is entitled to incorporate subject matter disclosed in the figures as originally filed into the written description and the claims. The Examiner appears to be imposing an improper 'intent' requirement on the Applicant to show that the applicant intended to include the circular indicia in the written description. The MPEP makes no such 'intent' requirement; if a feature is shown in the figures as originally filed, that feature is entitled to be described in the written description and included in the claims.

Based on the foregoing, it is respectfully requested that the new matter objection to the specification and new matter rejection of claim 23 be withdrawn.

X. DIONNE ET AL U.S. PATENT NO. 5,645,494 IS NON-ANALOGOUS ART

The Examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re *Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re *Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re *Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); and *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993).

The instant application is directed to a yoga mat. Dionne et al. (U.S. Patent No. 5,645,494) is directed to a golf mat. As admitted by the Examiner in the Office Action, Dionne fails to disclose a yoga mat; only a golf mat. Dionne is a non-analogous reference in that Dionne is neither in the same field of endeavor as the instant application nor is Dionne directed to the same problem-solving area. Dionne is directed to solving a different problem in a

different manner than the instant application. A yoga mat is as related to a golf mat as it is to a bath mat or a door mat. Golf mats and yoga mats are simply not in the same field of endeavor; golf and yoga are two very distinct activities. Golf mats and yoga mats each have their own unique features directed to solving very different problems. There is no suggestion or motivation disclosed in Dionne to suggest that one of ordinary skill in the art would think that a golf mat reference would be reasonably pertinent to the particular problem relating to yoga mats with which the Applicant was concerned. See, for example, *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992) (Applicant claimed an improvement in a hose clamp which differed from the prior art in the presence of a preassembly "hook" which maintained the preassembly condition of the clamp and disengaged automatically when the clamp was tightened. The Board relied upon a reference which disclosed a hook and eye fastener for use in garments, reasoning that all hooking problems are analogous. The court held the reference was not within the field of applicant's endeavor, and was not reasonably pertinent to the particular problem with which the inventor was concerned because it had not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look to fasteners for garments. The Commissioner further argued in the brief on appeal that a disengageable catch is a common everyday mechanical concept, however the court held that the Commissioner did not explain why a "catch" of unstated structure is such a concept, and why it would have made the claimed invention obvious.).

As outlined in detail below and in the Declaration of the Applicant (see "F"), the claimed subject matter involves a yoga mat and, in the body of several

of the independent claims, it is clearly and unequivocally stated that the symmetrical body placement guide on the upper surface of the mat is configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. The Examiner explicitly admitted in the Office Action of May 14, 2003 that Dionne does not disclose a mat configured to aid a yoga practitioner's body during yoga postures.

One of ordinary skill in the art would not be looking to a golf mat to solve problems in the yoga area. A review of the figures of Dionne amply illustrate that the structure and surface of the Dionne golf mat are simply not suitable for the practice of yoga. The surface of the Dionne golf mat is covered with a harsh Astroturf (col. 3, lines 42-46) and, as shown in Figures 2a and 2b, is not conducive to the type of full-body exercises associated with yoga. Additionally, the golf mat of Dionne is directed only for standing and swinging of a golf club (col. 4, lines 4-22) and one of ordinary skill would be well aware that yoga involves all parts of the body and many different positions. A standing position is only one part of yoga and even then, the golf mat of Dionne would not be appropriate for yoga exercises that involve standing.

For the foregoing reasons, Dionne et al. is non-analogous art.

XI. ARGUMENTS - REJECTIONS UNDER 35 U.S.C. §103

The Office Action rejected claims 1 and 3-23 in a single reference rejection for obviousness under 35 U.S.C. 103 which authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. See MPEP 706.02(j) [Contents of a 35 U.S.C. 103 Rejection].

As only a single reference is being used to reject the claims, the distinction between rejections based on 35 U.S.C. 102 and those based on 35 U.S.C. 103 should be kept in mind. Under the former, the claim is anticipated by the reference. No question of obviousness is present. In other words, for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. Whereas, in a rejection based on 35 U.S.C. 103, the reference teachings must somehow be modified in order to meet the claims. The modification must be one which would have been obvious to one of ordinary skill in the art at the time the invention was made.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references when combined must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. M.P.E.P. §2143 (citing *In re Vaeck*, 20 USPQ 2d 1438 (Fed.Cir. 1991)).

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan

would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

As outlined in detail below, the Examiner has failed to meet their burden of establishing a prima facie case of obviousness.

A. The Rejections:

Claims 1-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dionne et al (U.S. Patent No. 5,645,494; attached in the Appendix as "I"). The Office Action errs in rejecting claim 2 as claim 2 had been cancelled without prejudice in a Response filed December 17, 2001.

1. Claims 1, 3, 11 and 18:

The Office Action rejected claims 1, 3, 11, and 18 on the basis that Dionne discloses a mat (figure 1) having an upper surface (24) and a lower surface (20) and a symmetrical body placement guide (30) on the upper surface of the mat; a patterned design (col. 3, lines 66-67 through col. 4, lines 1-22) defining a longitudinal axis substantially extending the length of and bisecting the upper surface and having a transverse axis bisecting the longitudinal axis and indicia comprising a line (40) positioned on the longitudinal axis at forty-five degree angles (figures 1, 3a-4b and 6-8).

The Office Action admitted that Dionne does not disclose a mat configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures, but stated that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Marsham*, 2

USPQ2d 1647 (1987). As discussed in more detail below, it is improper for the Office Action to ignore this claim limitation.

In response, Applicant respectfully contends that the obviousness rejection under 35 U.S.C. § 103 cannot be established by the teachings of Dionne as the rejection is inadequate to establish a prima facie case of obviousness.

a. Claim 1

Independent claim 1 describes a yoga mat including an elongated mat having an upper surface and a lower surface; and a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. Claim 1 further describes that the body placement guide includes a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis, and indicia positioned from the longitudinal axis at a forty-five degree angle; and four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants.

I. Office Action Failed to Address Each and Every Claim Element
Elongated mat

Dionne fails to disclose an elongated mat. The mat shown in Figure 1 of Dionne can hardly be described as elongated. The Office Action failed to particularly point out and distinctly state how Dionne allegedly disclosed an

elongated mat. The *American Heritage® Dictionary of the English Language: Fourth Edition (2000)* defines 'elongated' as.

1. Made longer; extended. 2. Having more length than width; slender.

Even the generally rectangular mat shown in Figure 8 of Dionne is by no means "slender."

Symmetrical Body Placement Guide:

Dionne further fails to describe a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. The Office Action states that Dionne discloses a symmetrical body placement guide (30) on the upper surface of the mat. However, reference number 30 of Dionne merely describes a grid pattern (col. 3, line 64) and fails to give the claim its broadest reasonable interpretation consistent with the specification. See MPEP 2111 [Claim Interpretation; Broadest Reasonable Interpretation]; *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

As outlined above, the Office Action admitted that it was ignoring the claim language stating that the symmetrical body placement guide was configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. However, all words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970). The Office Action merely stated that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte*

Marsham, 2 USPQ2d 1647 (1987). However, this fails to take into account that, while the golf mat of Dionne is useful for aiding a golf player to adjust the placement of his/her feet (col. 4, lines 4-14), a yoga mat must be useful for the entire body. As outlined above, a fundamental part of yoga is moving the body into various positions using combinations of various movements; movements which can involve all parts of the human body which can be in contact with the mat while only the feet of a user contact a golf mat. A large portion of a yoga practitioner's body can be in contact with the yoga mat in prone, supine or sitting positions. Even if the yoga practitioner is up off the floor, the yoga practitioner may be standing, kneeling on hands and feet, hands and knees, headstand, elbow stand, handstand and so on as there are over one thousand yoga postures.

Indicia Positioned From Longitudinal Axis at Forty-five Degree Angle:

While on the surface, the grid pattern 30 of Dionne appear to disclose a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis, and four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants, Dionne fails to disclose indicia positioned from the longitudinal axis at a forty-five degree angle.

As outlined above, the Examiner admitted during the Interview of April 9, 2003 that Dionne did not teach the limitation of forty-five degree angles in claims 1-23. In the case of claim 1, this referred to the indicia positioned from

the longitudinal axis at a forty-five degree angle. In the Interview of July 8, 2003, the Examiner claimed that as broadly as interpreted, the Dionne reference reads on the limitation regarding 'indicia positioned from the longitudinal axis at a forty-five degree angle'. The Examiner contended that "if a line is drawn from the longitudinal axis [Dionne] at a forty five degree angle, the indicia or 'grid pattern' [of Dionne] would intercept, or be positioned at any location (at that angle)." This is clearly a blatant example of speculation and improper hindsight on the part of the Examiner. First the Examiner admits that the feature is not disclosed in Dionne and then, three months later, the Examiner and her SPE collaborated to create a speculative hindsight-based explanation for how the feature in question is allegedly taught by the reference. No where does Dionne disclose any suggestion or motivation for this. While the Examiner may argue that some hindsight is necessarily part of the examination process, the speculative reasoning provided by the Examiner, unsupported by any suggestion or motivation from Dionne, clearly makes the hindsight employed to justify the rejection unacceptable, especially since the broadest reasonable interpretation of the phrase employed by the Examiner is clearly not consistent with the specification. Nothing in Dionne explicitly or impliedly suggests the limitations of indicia positioned from the longitudinal axis at a forty five degree angle.

b. Claim 3

Claim 3 depends from claim 1 and includes additional subject matter (i.e., the indicia comprises a line extending from the longitudinal axis at a forty-five degree angle). The Office Action stated that Dionne teaches indicia comprising a line (40) positioned on the longitudinal axis at forty-five degree

angles (figures 1, 3a-4b and 6-8). However, as stated above, Dionne does not disclose a line extending from the longitudinal axis at a forty-five degree angle and the Examiner deliberately ignored the language of the claim that stated that the line *extended* from the longitudinal axis while rejecting the claim on the basis that the line was 'positioned on the longitudinal axis at forty-five degree angles'. The Examiner is not free to substitute the word 'positioned' for the term 'extended' that is actually used in the claim. In fact, the Examiner's deliberate use of the word 'if' in the phrase 'if a line is drawn from the longitudinal axis' in the Interview Summary of July 8, 2003 clearly shows that the Examiner admits that Dionne does not disclose the subject matter of claim 3 and was engaging in speculation.

c. Claim 11

Independent claim 11 is similar to claim 1 in that claim 11 describes a yoga mat including an elongated mat having an upper surface and a lower surface; and a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. The body placement guide includes a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis; and four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants; wherein the patterned design includes indicia positioned from the longitudinal axis at a forty-five degree angle.

However, claim 11 also has the patterned design including indicia positioned from the transverse axis at a forty-five degree angle. The Supplemental Office Action and subsequent Interview failed to provide any support for the contention that Dionne allegedly discloses indicia positioned from the transverse axis at a forty-five degree angle. Again, this is clearly a blatant example of speculation and improper hindsight on the part of the Examiner. First the Examiner admits that the forty-five degree angle feature is not disclosed in Dionne and then, three months later, the Examiner and her SPE collaborated to create a speculative hindsight- based explanation of how the feature in question is allegedly taught by the reference. No where does Dionne disclose any suggestion or motivation for this. While the Examiner may argue that some hindsight is necessarily part of the examination process, the speculative reasoning provided by the Examiner, unsupported by any suggestion or motivation from Dionne, clearly makes the hindsight employed to justify the rejection unacceptable, especially since the broadest reasonable interpretation of the phrase employed by the Examiner is clearly not consistent with the specification. Nothing in Dionne explicitly or impliedly suggests the limitation of indicia positioned from the longitudinal axis as a 45 degree angle.

d. Claim 18

Independent claim 18 is similar to claims 1 and 11 in that claim 18 describes a yoga mat including an elongated mat having a rectangular configuration, an upper surface and a lower surface; and a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. The body placement guide includes a patterned design defining a longitudinal axis

substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis; and four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants; wherein the patterned design includes indicia positioned from the longitudinal axis at a forty-five degree angle and the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle.

Claim 18 also has the patterned design including step indicia within each quadrant and further describes the elongated mat as being rectangular. Nowhere in any of the Office Actions or Interviews did the Examiner specifically address where Dionne allegedly teaches the patterned design including step indicia within each quadrant. There is no suggestion or motivation in Dionne for step indicia, and certainly nothing disclosed in Dionne that would suggest step indicia given the broadest reasonable interpretation of the term consistent with the specification. The Office Action fails to provide any motivation or suggestion in Dionne, either explicitly or impliedly for modifying Dionne to create step indicia. The Office Action, with respect to claim 18, also failed to point to any feature of Dionne illustrating a rectangular configuration. However, with respect to the rejections of claims 10 and 11, the Office Action did state that Dionne discloses a mat with a rectangular configuration (Figure 8). This is simply one more example of how the Office Action failed to address each and every element of the claims in the rejections.

Thus, in view of the foregoing, with respect to the obviousness rejections, the "critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness of making the combination.'" *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985) quoting *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1453, 1452, 221 USPQ 481, 488 (Fed. Cir. 1984). In other words, the "mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 773 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) citing *Carl Schenck, A.G. v. Nortron Corp.*, 713 F.2d 782, 787, 218 USPQ 698, 702 (Fed. Cir. 1983). Dionne includes no teaching or even suggestion that the golf mat be used as a yoga mat, or include symmetrical body placement guide on the upper surface thereof configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. In fact, Applicant believes that it would be patently absurd to utilize such a golf mat in a yoga setting.

Furthermore, the "statute, §103, requires much more, i.e., that it would have been obvious to produce the claimed invention at the time it was made without the benefit of hindsight." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1575, 1 USPQ2d 1081, 1087 (Fed. Cir. 1986). "When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) citing *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d

1572, 1577 & n.14, 221 USPQ 929, 933 & n.14 (Fed. Cir. 1984). Applicant believes any motivation by the Examiner to modify Dionne et al. to read on the claims is derived from Applicant's own invention since there is no suggestion in the cited reference for the desirability of modifying Dionne in any way.

The mere fact that references can be combined or modified does not render does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In *re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). There is nothing in Dionne to suggest that the golf mat disclosed therein be modified or otherwise adapted to the claimed yoga mat.

Measuring a claimed invention against the standard established by 35 USC § 103 requires the oft-difficult but critical step of casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983). Close adherence to this methodology is especially important in the case of less technologically complex inventions, where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *Id.* The claimed yoga mat is certainly one such invention where hindsight has been improperly applied to reconstruct the claimed invention from Dionne et al.

As stated by M.P.E.P. 2141.02, in determining the differences between the prior art and the claims, the question under 35 U.S.C. §103 is not whether the differences themselves would have been obvious, but whether the claimed

invention as a whole would have been obvious. Citing, *Stratoflex, Inc. v. Aeroquip Corp.*, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 218 USPQ 698 (Fed. Cir. 1983). Further, a prior art reference must be considered in its entirety, i.e., as a whole including portions that would lead away from the claimed invention. M.P.E.P. §2141.02, citing, *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 US 851 (1984). In the instant application, the Office Action has not considered the claimed invention in its entirety as the Office Action has deliberately ignored or marginalized these claim limitations relating to the mat being a yoga mat.

Case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references. In re *Dembiczak*, 175 F.3d 994, 998, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999). See also, e.g., *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998) (describing “teaching or suggestion or motivation [to combine]” as an “essential evidentiary component of an obviousness holding”); In re *Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) (“the Board must identify specifically . . . the reasons one of ordinary skill in the art would have been motivated to select the references and combine them”); In re *Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (examiner can satisfy burden of obviousness in light of combination “only by showing some objective teaching [leading to the combination]”); In re *Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (evidence of teaching or suggestion “essential” to

avoid hindsight); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 297, 227 USPQ 657, 667 (Fed. Cir. 1985) (district court's conclusion of obviousness was error when it "did not elucidate any factual teachings, suggestions or incentives from this prior art that showed the propriety of combination"). See also *Graham*, 383 U.S. at 18, 148 USPQ at 467 ("strict observance" of factual predicates to obviousness conclusion required). Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight. See, e.g., *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985) ("The invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time."). In this case, the Examiner fell into the hindsight trap. The Office Action admits that Dionne et al. does not disclose a yoga mat or provide any suggestion or motivation that the golf mat of Dionne may be used as a yoga mat. The golf mat of Dionne is as much related to a yoga mat as it is to a wrestling mat.

The Federal Circuit has noted that evidence of a suggestion, teaching, or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, see *Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc.*, 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), *Para-Ordinance Mfg. v. SGS Imports Intern., Inc.*, 73 F.3d 1085, 1088, 37 USPQ2d 1237, 1240 (Fed. Cir. 1995), although "the suggestion more often comes from the teachings of the pertinent references," *Rouffet*, 149 F.3d at 1355, 47 USPQ2d at 1456. The range of sources available, however, does not

diminish the requirement for actual evidence. That is, the showing must be clear and particular. See, e.g., C.R. Bard, 157 F.3d at 1352, 48 USPQ2d at 1232. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence.” E.g., McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) (“Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact.”); In re Sichert, 566 F.2d 1154, 1164, 196 USPQ 209, 217 (CCPA 1977) (“The examiner’s conclusory statement that the specification does not teach the best mode of using the invention is unaccompanied by evidence or reasoning and is entirely inadequate to support the rejection.”). In addition to demonstrating the propriety of an obviousness analysis, particular factual findings regarding the suggestion, teaching, or motivation to combine serve a number of important purposes, including: (1) clear explication of the position adopted by the Examiner; (2) identification of the factual disputes, if any, between the applicant and the Examiner; and (3) facilitation of review on appeal. See, e.g., In re Dembiczak, 175 F.3d 994, 998, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999). Here, however, the Office Action did not make particular findings regarding the locus of the suggestion, teaching, or motivation to modify the prior art reference. Instead, the Office Action made conclusory statements; failing to provide any suggestion, teaching, or motivation to modify the reference.

In the rare case where the prior art does not appreciate the existence of the problem solved by the invention, the applicant’s recognition of the problem is, in itself, strong evidence of the non-obviousness of the invention. In re Nomiya et al., 184 USPQ 607, 612-613 (CCPA 1975).

Here, the claimed invention addresses specific problems in the yoga area. The fact that the Dionne patent does not even disclose a potential use for anything other than golf illustrates that it is intended to solve a completely different problem than the present invention, and does not address the problems solved by the present invention nor its advantages renders it unsuitable as a reference for rejection under 35 U.S.C. §103.

Thus, the Office Action has failed to establish the first basic criteria of a *prima facie* case of obviousness: that there must be some suggestion or motivation in either the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. The mere fact that the references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. §2143.01 citing *In re Mills*, 16 USPQ 2d 1430 (Fed. Cir. 1990).

The teachings of Dionne et al. are not analogous to the teachings of the present application which is directed to a yoga mat. Although the Dionne reference is directed to a mat alike that alone is insufficient to apply to the reference yoga mat. Of course, it is axiomatic that a claimed invention is not obvious solely because it is composed of elements that are individually found in the prior art. *Life Technologies, Inc. v. Clontech Laboratories, Inc.*, 56 USPQ 2d 1186 (Fed. Cir. 2000).

Thus, it appears as if the Examiner has inappropriately used Applicant's claims as a framework from which to pick and choose from Dionne to recreate the claimed invention. Of course, it is well-known that such hindsight is impermissible and strictly forbidden. It is also well-known that it is

impermissible within the framework of 35 U.S.C. §103 to pick and choose from a reference only so much of it that will support a conclusion of obviousness to the exclusion of other parts necessary to a full appreciation of what the reference fairly suggests to one skilled in the art. *Bausch & Lomb v. Barnes Hind/Hydrocurve, Inc.*, 230 USPQ 416 (Fed. Cir. 1986). Applicant believes that impermissible hindsight was used in reconstructing a non-analogous reference that should have not been modified in an attempt to reject the claims of the present application.

If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious. M.P.E.P. §2143.03 citing In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988). Applicant asserts that the independent claims 1, 11 and 18 are not obvious for the reasons provided above, nor are the claims that depend from them.

For the foregoing reasons, the rejections to claims 1, 3, 11 and 18 should be withdrawn.

2. Claims 2, 4, 5, 11, 18 and 19

The Office Action rejected claims 2, 4, 5, 11, 18 and 19 in that Dionne discloses a patterned design (30) including indicia comprising a line (40) positioned from the longitudinal and transverse axis at forty-five degree angles (figures 1, 3a-4b and 6-8). The Office Action erred in rejecting claim 2 in that claim 2 had previously been cancelled without prejudice. Claims 11 and 18 were rejected by the Examiner in connection with claims 1 and 3, as outlined above. Apparently, the redundant rejections are due to yet another error/oversight on the part of the Examiner.

a. Claims 11 and 18

Independent claims 11 and 18 are allowable for the reasons outlined above. In the instant rejection, the Examiner stated that Dionne allegedly disclosed a patterned design (30) including indicia comprising a line (40) positioned from the longitudinal and transverse axis at forty-five degree angles (figures 1, 3a-4b and 6-8). However, as outlined above, Dionne fails to disclose these and other features such as the step indicia discussed above. The Examiner's interpretation of the claims is not the broadest reasonable interpretation consistent with the specification.

b. Claim 4

Claim 4 depends from claim 1 and included the additional subject matter that the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle. For reasons similar to those outlined above, claim 4 is not disclosed by Dionne.

c. Claim 5

Claim 5 depends from claim 4 and includes the additional subject matter that the indicia comprises a line extending from the transverse axis at a forty-five degree angle. The Office Action states that Dionne discloses a patterned design (30) including indicia comprising a line (40) positioned from the transverse axis at forty-five degree angles (figures 1, 3a-4b and 6-8). However, for reasons similar to those stated above with respect to claim 3, Dionne does not disclose a line extending from the transverse axis at a forty-five degree angle and the Examiner deliberately ignored the language of the claim that stated that the line *extended* from the longitudinal axis while rejecting the claim on the basis that the line was '*positioned* on the longitudinal

axis at forty-five degree angles'. However, the Examiner is not free to substitute the word 'positioned' for the term 'extended' that is actually used in the claim.

d. Claim 19

Claim 19 depends from claim 18 and includes the additional subject matter that the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines. For reasons similar to that discussed above with respect to claims 3 and 5, Dionne does not disclose the subject matter of the claim.

For the foregoing reasons, the rejections to claims 2, 4, 5, 11, 18 and 19 should be withdrawn.

3. Claims 6-7, 13-14 and 20-21

The Office Action rejected claims 6-7, 13-14 and 20-21 in that Dionne discloses the design having multiple segments of equal area parallel to the transverse and longitudinal axis (col. 4, lines 14-67; figures 1, 3a-4b and 6-8).

Claim 6 depends from claim 1, claim 13 depends from claim 11, and claim 20 depends from claim 18. Claims 6, 13 and 20 each includes the additional subject matter that the patterned design defines multiple segments of equal area parallel to the transverse axis.

Claim 7 depends from claim 1, claim 14 depends from claim 11, and claim 21 depends from claim 18. Claims 7, 14 and 21 each includes the additional subject matter that the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

The Office Action presents nothing more than a conclusory statement that multiple segments of equal area parallel to the transverse and longitudinal

axis are disclosed in col. 4, lines 14-67 and Figures 1, 3a-4b and 6-8 of Dionne. There is nothing provided that indicates that the Examiner is using the broadest reasonable interpretation of the term 'multiple segments' that is consistent with the specification. The Office Action fails to describe which individual feature forms an individual segment so that Applicant is able to determine what is being interpreted as a 'multiple segment'. There is no motivation or suggestion set forth in the Office Action for modifying Dionne in this manner.

A review of the written description and figures of the instant application illustrate that multiple segments 50, 52 are not disclosed by the simple grid 30 of Dionne as the grid 30 is nothing more than an indistinct sea of identical squares. The interpretation of the grid 30 as defining "multiple segments" is not consistent with the specification.

For the foregoing reasons, the rejections to claims 6-7, 13-14 and 20-21 should be withdrawn.

4. Claims 8-9, 15-16 and 22

The Office Action rejected claims 8-9, 15-16 and 22 in that Dionne discloses the design includes indicia created by intersecting lines (figures 1, 3a-4b and 6-8) within each quadrant. However, once again, it appears that the Office Action has failed to construct the broadest reasonable interpretation of the terms of the claim that is consistent with the specification.

a. Claims 8 and 9

Claim 8 depends from claim 1 and includes the additional subject matter that the patterned design includes step indicia within each quadrant. Nowhere in any of the Office Actions or Interviews did the Examiner specifically address where Dionne allegedly teaches the patterned design including step indicia

within each quadrant. There is no suggestion or motivation in Dionne for step indicia, and certainly nothing disclosed in Dionne that would suggest step indicia given the broadest reasonable interpretation of the term consistent with the specification. The grid 30 of Dionne fails to disclose distinct step indicia as claimed by Applicant, or any specific location in the grid 30 consistent with the interpretation of "step indicia" for the placement of body parts for large and small movements of a yoga practitioner's body. Dionne fails to disclose forty five degree angle features and the step indicia 46 of the instant application are partially defined by forty five degree angle indicia 42, 44 (see Fig. 2).

Claim 9 depends from claim 8 and includes the additional subject matter that the step indicia are created by intersecting lines forming a ninety degree angle. Again, no basis is provided for suggesting that the indicia created by intersecting lines in Dionne (figures 1, 3a-4b and 6-8) is consistent with the subject matter of the claims. On page of the 6 and Figure 1 of the Applicant's specification, it is clearly stated that the pattern design 12 includes step indicia 46 in each quadrant 34-40; that such step indicia 46 are equally placed in each quadrant and that the step indicia 46 divides the design 12 into a step pattern having large movement step indicia 46 and smaller movement step indicia 48, usually associated with the larger step indicia 46. Typically, the step indicia 46 and 48 are created by intersecting lines forming a ninety degree angle. The small step indicia 48 allow for fine tuning of the posture and can be used to chart flexibility as the practitioner progresses. The Office Action fails to provide any motivation or suggestion that the intersecting lines of the Dionne grid pattern 30 serve the function of the step indicia as claimed. The only basis for

the Office Action to correlate the grid pattern 30 of Dionne with the step indicia of the claim is improper hindsight.

b. Claims 15 and 16

Claim 15 depends from claim 11 and includes the additional subject matter that the patterned design includes step indicia within each quadrant. Claim 16 depends from claim 15 and includes the additional subject matter that the step indicia are created by intersecting lines forming a ninety degree angle.

Claims 15 and 16 are similar to claims 8 and 9 above. The Office Action fails to disclose the subject matter of claims 15 and 16 for the same reasons outlined above with respect to claims 8 and 9, respectively.

c. Claim 22

Claim 22 depends from claim 18 and includes the additional subject matter that the step indicia are created by intersecting lines forming a ninety degree angle. Claim 22 is similar to claims 9 and 16 above. The Office Action fails to disclose the subject matter of claim 22 for the same reasons outlined above with respect to claims 9 and 16.

For the foregoing reasons, the rejections to claims 8-9, 15-16 and 22 should be withdrawn.

5. Claims 10 and 11

The Office Action rejected claims 10 and 17 in that Dionne discloses a mat having a rectangular configuration (figure 8).

Claim 10 depends from claim 1 and includes the additional subject matter that the elongated mat has a rectangular configuration. Likewise, claim 17 depends from claim 11 and includes the additional subject matter that the elongated mat has a rectangular configuration. Figure 8 of Dionne actually

discloses an octagonal mat (i.e., a mat having 8 sides) that is described as rectangular in the specification (col. 5, lines 58-59). However, as has been stated several times, there is no suggestion or motivation provided by the Office Action that suggests that one of ordinary skill in the art would be modify the golf mat of Dionne to be elongated and rectangular in adapting that golf mat for yoga or even that the golf mat of Dionne could be so modified without destroying the golf mat for its intended use.

For the foregoing reasons, the rejections to claims 10 and 17 should be withdrawn.

6. Claim 23

Independent Claim 23 was added to the claims in order to provoke an interference with Marquez (U.S. Patent No. 6,387,013), filed March 3, 2000 and issued May 14, 2002. Claim 23 substantially corresponds to claim 9 of Marquez. The instant application was filed January 19, 2001 and claims priority from provisional application Serial No. 60/177,512, filed January 21, 2000; and provisional application Serial No. 60/229,868, filed August 30, 2000.

Applicant had requested that the U.S. Patent and Trademark Office declare an interference between the instant application and Marquez, pursuant to MPEP 2306, 2309 or whichever section of the MPEP the Examiner deemed appropriate upon allowance of the claims of the instant application. Applicant claims the same patentable invention as is claimed in Marquez.

The subject matter of Claim 23 was fully disclosed in the figures, specification, and claims of the instant application, as originally filed. No new matter was added. As noted above, the Office Action rejected claim 23 as

including new matter in the form of the circular indicia (i.e., marker 54, 56 and 58) located at various intersections in the figures as originally filed.

The Office Action rejected claim 23 on the basis that, under 35 U.S.C. §103(a), claim 23 is unpatentable over Dionne et al. It should be noted that Dionne et al. was the only reference cited against the Marquez patent and that claim 9 of Marquez (substantially identical to claim 23 of the instant application) was deemed allowable over Dionne et al. Therefore, claim 23 should also be allowed over Dionne.

Independent claim 23 describes a yoga mat that comprises a mat comprised of a flat structure having an upper surface, a lower surface and a longitudinal axis; a first center line positioned upon said upper surface of said mat; a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line; a plurality of first lines parallel to said first center line; a plurality of second lines parallel to said second center line; wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area on opposing sides of said second center line wherein each set of said four quadrants has a center point; and a plurality of markers wherein a single marker is located on selected intersections of said plurality of second lines with said first line and at each said center point of each set of four quadrants.

The Office Action stated that Dionne et al. teaches a mat having a flat structure with an upper and lower surface and a longitudinal axis (42); a first

center line positioned upon the upper surface and a second center line positioned upon the upper surface parallel to the longitudinal axis and orthogonal with respect to the first center line; a plurality of first lines parallel to the first center line and a plurality of second lines parallel to the second center line where the lines provide a plurality of rectangles on the mat; the rectangles are separated into four quadrants each having a center point (at a point where the lines intersect); a plurality of markers (25) located on selected intersections of the second lines with the first line and at each center point of each of the quadrants.

a. Office Action Failed to Address Each and Every Claim Element

i. Flat Structure

The Office Action fails to disclose how Dionne discloses a flat structure suitable for use as a yoga mat. The mat shown in Figures 2a and 2b of Dionne can hardly be described as 'flat'. Dionne specifically discloses that vertical fibers 23 of top surface 24 may vary in length 27 between different portions of the top surface 24 to simulate fairway or rough conditions all on the same mat and that a portion of the golf mat is designed to simulate a sand trap 29 (col. 3, lines 48-63). This hardly presents the appearance of a flat surface suitable for use as a yoga mat

ii. Center Points of Rectangles

The Office Action states in a conclusory manner that the rectangles are separated into four quadrants each having a center point (at a point where the lines intersect). However, the Office Action fails to provide any suggestion or motivation in Dionne for a center point. Dionne fails to disclose a center point in each of the four quadrants that may be created by the intersection of lines 40

and 42 of Dionne. A review of the figures and description of Dionne fails to disclose any reference to a center point in each quadrants of the golf mat shown. The mats, for the most part, are irregularly shaped and do not illustrate quadrants with center points.

Reference number 30 of Dionne merely describes a grid pattern (col. 3, line 64) and the Office Action fails to give claim 23 its broadest reasonable interpretation consistent with the specification. See MPEP 2111 [Claim Interpretation; Broadest Reasonable Interpretation]; In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). While some hindsight is necessarily part of the examination process, the lack of any reasoning in the Office Action to explain any suggestion or motivation gleaned from by Dionne, clearly makes the hindsight employed to justify the rejection unacceptable, especially since the broadest reasonable interpretation of the phrase employed by the Examiner is clearly not consistent with the specification.

iii. Markers

The Office Action also fails to describe how Dionne discloses a plurality of markers wherein a single marker is located on selected intersections of the plurality of second lines with the first line and at each center point of each set of four quadrants.

Instead, the Office Action states in a conclusory manner that Dionne discloses a plurality of markers (25) located on selected intersections of the second lines with the first line and at each center point of each of the quadrants.

iv. Tee Locations Not Markers

The so-called 'markers' allegedly disclosed by Dionne are actually tee locations 25 (col. 3, line 62). The markers in claim 23 are indicia on the surface of the mat while the tee locations 25 of Dionne are holes in the mat (Figure 2b). The Office Action's attempt to equate the tee location holes of Dionne with the marker indicia of claim 23 fails to give claim 23 its broadest reasonable interpretation consistent with the specification. See MPEP 2111 [Claim Interpretation; Broadest Reasonable Interpretation]; In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The tee locations 25 solve a different problem than the markers 54, 56, 58 of the body placement guide of the instant application. The tee locations 25 have nothing to do with yoga or the placement of a yoga practitioner's body during yoga exercises.

v. Tee Locations Nowhere Near Quadrant Center Points

As seen in the figures of Dionne, the tee locations are not located anywhere near the alleged center point of each of the quadrants. Claim 23 specifically states that a single marker is located on selected intersections of the plurality of second lines with the first line and at each center point of each set of four quadrants. The Office Action ignores this claim limitation and provides not motivation or suggestion in Dionne for moving the tee locations 25 from the edges of the mat to a center point of each quadrant. Even more importantly, the Office Action ignores the fact that the proposed modification of moving the tee locations to the center point of each quadrant would render the golf mat of Dionne unsatisfactory for its intended purpose, which is to provide a surface that simulates that of a golf course fairway with various heights of 'grass' (i.e., Astroturf), sand hazards, etc. If a proposed modification would render the prior art invention being modified unsatisfactory for its intended

purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

vi. Six Non-Overlapping Sets of Rectangles Are Not a Change in Shape

The Office Action admitted that Dionne fails to describe the limitation of claim 23 that states that the plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area on opposing sides of said second center line wherein each set of said four quadrants has a center point. The Office Action attempted to brush aside the failure of Dionne to disclose this feature by stating that this claim limitation was somehow a change in shape within the skill of the art. The Office Action merely stated in a conclusory manner that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). However, the Office Action failed to provide any explanation of how this feature was somehow a change in shape. The Office Action simply cannot equate a claim limitation specifying that the plurality of rectangles separated into six non-overlapping sets of four quadrants with a change in shape (e.g., square to circular).

For the foregoing reasons, the rejection to claim 23 should be withdrawn.

XII. CONCLUSION

Based upon the foregoing, the rejections should be withdrawn and the claims allowed over Dionne. Dionne is non-analogous in that it discloses a golf mat with no suggestion or motivation to adapt the structure of the golf mat, uniquely suited to golf, to a structure suitable for the practice of yoga. The

claims have been rejected based on improper hindsight, speculation and interpretation inconsistent with the specification.

XIII. APPENDIX OF CLAIMS

The text of the claims involved in appeal are:

1. A yoga mat, comprising:
an elongated mat having an upper surface and a lower surface; and
a symmetrical body placement guide on the upper surface of the mat
and configured to aid a yoga practitioner to properly align the practitioner's
body during yoga postures, the body placement guide including:
a patterned design defining a longitudinal axis substantially extending
the length of and bisecting the upper surface, the patterned design further
defining a transverse axis bisecting the longitudinal axis, and indicia positioned
from the longitudinal axis at a forty-five degree angle; and
four equal quadrants defined by the longitudinal axis and the transverse
axis, each quadrant being adjacent to two other quadrants, the patterned
design in each quadrant being a mirror image of the patterned design of the
two adjoining quadrants.
3. The yoga mat of claim 1, wherein the indicia comprises a line
extending from the longitudinal axis at a forty-five degree angle.
4. The yoga mat of claim 1, wherein the patterned design includes
indicia positioned from the transverse axis at a forty-five degree angle.
5. The yoga mat of claim 4, wherein the indicia comprises a line
extending from the transverse axis at a forty-five degree angle.

6. The yoga mat of claim 1, wherein the patterned design defines multiple segments of equal area parallel to the transverse axis.

7. The yoga mat of claim 1, wherein the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

8. The yoga mat of claim 1, wherein the patterned design includes step indicia within each quadrant.

9. The yoga mat of claim 8, wherein the step indicia are created by intersecting lines forming a ninety degree angle.

10. The yoga mat of claim 1, wherein the elongated mat has a rectangular configuration.

11. A yoga mat, comprising:
an elongated mat having an upper surface and a lower surface; and
a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures, the body placement guide including:

a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis; and

four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned

design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants;

wherein the patterned design includes indicia positioned from the longitudinal axis at a forty-five degree angle; and

wherein the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle.

12. The yoga mat of claim 11, wherein the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines.

13. The yoga mat of claim 11, wherein the patterned design defines multiple segments of equal area parallel to the transverse axis.

14. The yoga mat of claim 11, wherein the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

15. The yoga mat of claim 11, wherein the patterned design includes step indicia within each quadrant.

16. The yoga mat of claim 15, wherein the step indicia are created by intersecting lines forming a ninety degree angle.

17. The yoga mat of claim 1, wherein the elongated mat has a rectangular configuration.

18. A yoga mat, comprising:
- an elongated mat having a rectangular configuration, an upper surface and a lower surface; and
 - a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures, the body placement guide including:
 - a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis; and
 - four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants;
 - wherein the patterned design includes indicia positioned from the longitudinal axis at a forty-five degree angle;
 - wherein the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle; and
 - wherein the patterned design includes step indicia within each quadrant.
19. The yoga mat of claim 18, wherein the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines.
20. The yoga mat of claim 18, wherein the patterned design defines multiple segments of equal area parallel to the transverse axis.

21. The yoga mat of claim 18, wherein the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

22. The yoga mat of claim 18, wherein the step indicia are created by intersecting lines forming a ninety degree angle.

23. A yoga mat, comprising:

a mat comprised of a flat structure having an upper surface, a lower surface and a longitudinal axis;

a first center line positioned upon said upper surface of said mat;

a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line;

a plurality of first lines parallel to said first center line;

a plurality of second lines parallel to said second center line;

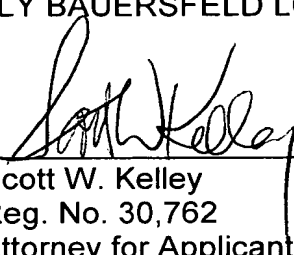
wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area on opposing sides of said second center line wherein each set of said four quadrants has a center point; and

a plurality of markers wherein a single marker is located on selected intersections of said plurality of second lines with said first line and at each said center point of each set of four quadrants.

Respectfully submitted,

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

AMERSON, LORI BAKER

ART UNIT PAPER NUMBER

3764

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
MAR 03 2003
KELLY BAUERSFELD LOWRY & KELLEY

A

Office Action Summary

Application No.

09/765,533

Applicant(s)

HOWLETT-CAMPANELLA, HELEN
HARDMAN

Examiner

Lori Baker Amerson

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 December 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Response to Amendment

1. The amendment filed 12/12/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: markers 54, 56 and 58. Applicant is required to cancel the new matter in the reply to this Office Action.
2. Applicants' request for a declaring interference has been denied due to the fact that interference cannot be declared unless all claims of an application are in condition for allowance. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dionne et al [5645494]. As to claims 1, 3, 11, and 18, Dionne discloses a mat (figure 1) having an upper surface (24) and a lower surface (20) and a symmetrical body placement guide (30) on the upper surface of the mat; a patterned design (col. 3, lines 66-67 thru col. 4, lines 1-22) defining a longitudinal axis substantially extending the length of and bisecting the upper surface and having a transverse axis bisecting the longitudinal axis and indicia comprising a line (40) positioned on the longitudinal axis at

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forty-five degree angles (figures 1, 3a-4b and 6-8); four equal quadrants (col. 4, line 23) defined by the longitudinal and transverse axes where the quadrants are adjacent and are a mirror image of adjoining adjacent quadrants (figures 1, 3a-4b and 6-8).

As to claims 2, 4, 5, 11, 18 and 19, Dionne discloses a patterned design (30) includes indicia comprising a line (40) positioned from the longitudinal and transverse axis at forty-five degree angles (figures 1, 3a-4b, 6-8).

As to claims 6-7, 13-14 and 20-21, Dionne discloses the design having multiple segments of equal areas parallel to the transverse and longitudinal axis (col. 4, lines 14-67; figures 1, 3a-4b, 6-8).

As to claims 8-9 and 15-16 and 22, the design includes indicia created by intersecting lines (figures 1, 3a-4b, 6-8) within each quadrant.

As to claims 10 and 17, the mat has a rectangular configuration (figure 8). Dionne does not disclose the mat configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori Baker Amerson whose telephone number is (703) 306-5576. The examiner can normally be reached on Monday thru Friday from 8-5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703-308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Art Unit: 3764

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5648.

SPM

Lba

February 24, 2003

**NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,533	01/19/2001	Helen Hardman Howlett-Campanella	HOWLETT-3S283	1419

7590

05/14/2003

Scott W. Kelley
KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367

EXAMINER

AMERSON, LORI BAKER

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 05/14/2003

RECEIVED

MAY 19 2003

KELLY BAUERSFELD LOWRY & KELLEY

Please find below and/or attached an Office communication concerning this application or proceeding.

B

Interview Summary

Application No.

09/765,533

Applicant(s)

HOWLETT-CAMPANELLA,
HELEN HARDMAN

Examiner

Lori Baker Amerson

Art Unit

3764

All participants (applicant, applicant's representative, PTO personnel):

(1) Lori Baker Amerson.

(3) Helen Campanella, applicant.

(2) Matthew Sparks, applicant's representative.

(4) _____.

Date of Interview: 09 April 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1 and 23.

Identification of prior art discussed: Dionne.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

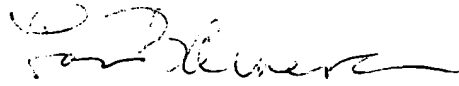
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☐ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative argued that a 112, 1st paragraph rejection should have been made regarding claim 23 since the Examiner contends that the limitations pertaining to the markers is interpreted as new matter. Applicant's representative also argued that the subject matter pertaining to the markers is not considered new subject matter and referenced MPEP 2163.06. The representative argued that the provisional application discloses the markers in Figure 9. The representative also argued that the Dionne reference does not teach the limitations regarding the 45 degree angles; therefore, the claimed invention overcomes the prior art of record. Additionally, the representative argued that the Dionne reference does not teach a yoga mat and that the preamble of claim 1 should be given weight [MPEP 2173.05(g)]; therefore, the claimed invention overcomes the prior art of record. Finally, the representative argued that the functional language of claim 1 in the instant invention overcomes Dionne because it defines how a person is aligned on a yoga mat [MPEP 2111.02]. The representative requested a decision on the new matter issue by a supervisor. The supervisor agrees that the applicant does not have support for the issue pertaining to the marker, and therefore considers it as new matter. Regarding the 112, 1st paragraph rejection on claim 23, the Examiner concurs that a 112, 1st paragraph rejection is procedurally correct since the issue of new matter has been raised. A supplemental action which will include the 112 rejection will be mailed. Regarding the recitation of 45 degree angles, the Examiner concurs that Dionne does not teach the limitation of 45 degree angles in claims 1-23, the representative should file a formal response with arguments to address the rejection. Regarding the preamble of claim 1, the Examiner contends that the preamble "a yoga mat" merely recites the intended use of the structure [a mat for the purpose of yoga] and does not 'breathe life and meaning' into the claim. Regarding the functional language of claim 1, the Examiner contends that the functional recitation "to aid a yoga practitioner to properly align the practitioner's body during yoga postures" does not structurally distinguish itself over the prior art. Again, a supplemental action will be mailed to correct the deficiencies of the previous office action, but the applicant should file a formal response with arguments in order for the examiner to address all of the remaining issues raised.

Office Action Summary

Application No.

09/765,533

Applicant(s)

HOWLETT-CAMPANELLA, HELEN
HARDMAN

Examiner

Lori Baker Amerson

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 December 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3764

Supplemental Action

1. The amendment filed 12/12/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: markers 54, 56 and 58.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. Applicants' request for a declaring interference has been denied due to the fact that interference cannot be declared unless all claims of an application are in condition for allowance. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 23 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. A plurality of markers 54, 56 and 58 (line 16) are not described in the specification nor the subject matter pertaining to the plurality of rectangles separated into six non-overlapping sets in line 12-13.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dionne et al [5645494]. As to claims 1, 3, 11, and 18, Dionne discloses a mat (figure 1) having an upper surface (24) and a lower surface (20) and a symmetrical body placement guide (30) on the upper surface of the mat; a patterned design (col. 3, lines 66-67 thru col. 4, lines 1-22) defining a longitudinal axis substantially extending the length of and bisecting the upper surface and having a transverse axis bisecting the longitudinal axis and indicia comprising a line (40) positioned on the longitudinal axis at forty-five degree angles (figures 1, 3a-4b and 6-8); four equal quadrants (col. 4, line 23) defined by the longitudinal and transverse axes where the quadrants are adjacent and are a mirror image of adjoining adjacent quadrants (figures 1, 3a-4b and 6-8).

As to claims 2, 4, 5, 11, 18 and 19, Dionne discloses a patterned design (30) includes indicia comprising a line (40) positioned from the longitudinal and transverse axis at forty-five degree angles (figures 1, 3a-4b, 6-8).

As to claims 6-7, 13-14 and 20-21, Dionne discloses the design having multiple segments of equal areas parallel to the transverse and longitudinal axis (col. 4, lines 14-67; figures 1, 3a-4b, 6-8).

As to claims 8-9 and 15-16 and 22, the design includes indicia created by intersecting lines (figures 1, 3a-4b, 6-8) within each quadrant.

As to claims 10 and 17, the mat has a rectangular configuration (figure 8). Dionne does not disclose the mat configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

As to claim 23, as best understood by the examiner, Dionne teaches a mat having a flat structure with an upper and lower surface and a longitudinal axis (42); a first center line positioned upon the upper surface and a second center line positioned upon the upper surface parallel to the longitudinal axis and orthogonal with respect to the first center line (see examiner annotation in fig. 1); a plurality of first lines parallel to the first center line and a plurality of second lines parallel to the second center line where the lines provide a plurality of rectangles on the mat (see examiner annotation in fig. 1); the rectangles are separated into four quadrants each having a center point (at a point where the lines intersect); a plurality of markers (25) located on selected intersections of the second lines with the first line and at each center point of each of the quadrants. Dionne discloses all of the limitations of the claimed subject matter except for the rectangles being separated into six non-overlapping sets. A change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Art Unit: 3764

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori Baker Amerson whose telephone number is (703) 306-5576. The examiner can normally be reached on Monday thru Friday from 8-5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 703-308-2698. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5648.

Lba
April 21, 2003

**NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**

Notice of References Cited	Application/Control No. 09/765,533		Applicant(s)/Patent Under Reexamination HOWLETT-CAMPANELLA, HELEN	
	Examiner Lori Baker Amerson		Art Unit 3764	Page 1 of 1

U.S. PATENT DOCUMENTS

* *		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification	
*	A	US-5645494	07-1997	Dionne et al	473	278
	B	US-				
	C	US-				
	D	US-				
	E	US-				
	F	US-				
	G	US-				
	H	US-				
	I	US-				
	J	US-				
	K	US-				
	L	US-				
	M	US-				

FOREIGN PATENT DOCUMENTS

* *		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification	
	N						
	O						
	P						
	Q						
	R						
	S						
	T						

NON-PATENT DOCUMENTS

* *		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707 05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents,
Washington, D.C. 20231 August 14, 2002

Scott W. Kelley, Reg. 30,762 / August 14, 2002
Date

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

)	Group Art Unit: 3764
)	
In re Application of)	Examiner: Amerson, L.
)	
Helen Hardman Howlett-Campanella)	
)	
Serial No. 09/765,533)	Docket No. HOWL-38283
)	
Filed: January 19, 2001)	
)	
For: YOGA MAT WITH BODY CONTACT)	
PLACEMENT INDICIA)	
_____)	

RESPONSE

Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to an Office Action dated June 14, 2002, in connection with the above-identified application, the following is submitted:
Please amend the above-identified application as follows.

CLEAN VERSION OF EACH REPLACEMENT PARAGRAPH/SECTION

CLAIM UNDER 37 CFR §1.121

Kindly enter the following:

IN THE SPECIFICATION

On page 4 of the specification, 5th paragraph,

As shown in the drawings for purposes of illustration, the present invention is concerned with a yoga mat, referred to generally in the drawings by the reference number 10, having a body placement guide design (referred to in FIG. 1 by the reference number 12, in FIG. 2 by the reference number 14, in FIG. 3 by the reference number 16, and FIG. 4 by the reference number 18, in FIG. 5 by the reference number 20, in FIG. 6 by the reference number 22, in FIG. 7 by the reference number 24, and in FIG. 8 by the reference number 26) on a top surface 28 of the mat 10 to facilitate proper placement of the body parts, alignment, improvement and fine tuning in yoga postures. In the several illustrated embodiments, the same reference numbers will be used for similar features common in the embodiments throughout the description.

On page 6 of the specification, 2nd paragraph

The pattern design 12 includes indicia 42 positioned from the longitudinal axis 30 at a forty-five degree angle. As illustrated in FIG. 1, this indicia comprises lines extending from the longitudinal axis 30 at a forty-five degree angle. However, as illustrated in FIGS. 7 and 8, the indicia may be merely aligned with the longitudinal axis 30 at a forty-five degree angle. As

seen in Figs. 1 and 6, a marker 54 may also be placed at the center point of mat 10 (which is also the center point of quadrants 24-40) where longitudinal axis 30 and transverse axis 32 intersect. Marker 54 may be circular.

On page 6 of the specification, 6th paragraph,

It will be noted that the indicia and segments 42-52 typically extend away from the center of the mat. The indicia 42-48, often in the form of parallel and vertical guidelines, incrementally help the practitioner as body parts are moved away from the center of the design 12-26. As seen in Fig. 8, a marker 56 may also be placed at the center point of mat 10 (which is also the center point of quadrants 34-40) where longitudinal axis 30 and transverse axis 32 intersect. Marker 56 may be circular. Additional markers 58 may also be placed at a plurality of points where indicia 42-48 intersect as well as at the points indicia 42-48 intersect longitudinal axis 30 and/or transverse axis 32. Markers 58 may be circular. As a whole, the design 12-26 is intended to be pleasing to the eye and fill the space of the mat 10 to facilitate body alignment with the more or less one thousand postures that the practitioner can perform. Once the practitioner understands the most common and used positions and how they relate to the mat design 12-26, other positions can be applied to the design using common sense.

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

Please replace the following paragraphs starting on page 4 of the Specification under Detailed Description of the Preferred Embodiments with the following replacement paragraphs:

On page 4 of the specification, 5th paragraph,

As shown in the drawings for purposes of illustration, the present invention is concerned with a yoga mat, referred to generally in the drawings by the reference number 10, having a body placement guide design (referred to in FIG. 1 by the reference number 12, in FIG. 2 by the reference number 14, in FIG. 3 by the reference number 16, and FIG. 4 by the reference number 18, in FIG. 5 by the reference number [22] 20, in FIG. 6 by the reference number 22, in FIG. 7 by the reference number 24, and in FIG. 8 by the reference number 26) on a top surface 28 of the mat 10 to facilitate proper placement of the body parts, alignment, improvement and fine tuning in yoga postures. In the several illustrated embodiments, the same reference numbers will be used for similar features common in the embodiments throughout the description.

On page 6 of the specification, 2nd paragraph

The pattern design 12 includes indicia 42 positioned from the longitudinal axis 30 at a forty-five degree angle. As illustrated in FIG. 1, this indicia comprises lines extending from the longitudinal axis 30 at a forty-five

degree angle. However, as illustrated in FIGS. 7 and 8, the indicia may be merely aligned with the longitudinal axis 30 at a forty-five degree angle. As seen in Figs. 1 and 6, a marker 54 may also be placed at the center point of mat 10 (which is also the center point of quadrants 24-40) where longitudinal axis 30 and transverse axis 32 intersect. Marker 54 may be circular.

On page 6 of the specification, 6th paragraph,

It will be noted that the indicia and segments 42-52 typically extend away from the center of the mat. The indicia 42-48, often in the form of parallel and vertical guidelines, incrementally help the practitioner as body parts are moved away from the center of the design 12-26. As seen in Fig. 8, a marker 56 may also be placed at the center point of mat 10 (which is also the center point of quadrants 34-40). Marker 56 may be circular. Additional markers 58 may also be placed at a plurality of points where indicia 42-48 intersect as well as at the points indicia 42-48 intersect longitudinal axis 30 and/or transverse axis 32. Markers 58 may be circular. As a whole, the design 12-26 is intended to be pleasing to the eye and fill the space of the mat 10 to facilitate body alignment with the more or less one thousand postures that the practitioner can perform. Once the practitioner understands the most common and used positions and how they relate to the mat design 12-26, other positions can be applied to the design using common sense.

IN THE DRAWINGS

Please replace the following figures as follows:

See proposed changes to Figures. 1,6 and 8, as shown in red ink.

IN THE CLAIMS

Please add claim 23, as follows:

--23. A yoga mat, comprising:

a mat comprised of a flat structure having an upper surface, a lower surface and a longitudinal axis;

a first center line positioned upon said upper surface of said mat;

a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line;

a plurality of first lines parallel to said first center line;

a plurality of second lines parallel to said second center line;

wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area on opposing sides of said second center line wherein each set of said four quadrants has a center point; and

a plurality of markers wherein a single marker is located on selected intersections of said plurality of second lines with said first line and at each said center point of each set of four quadrants.--

REMARKS

Parts of the specification were amended to include matter disclosed in the figures but not described in the specification. Figs. 1, 6 & 8 were also corrected to include missing reference numbers. Support for all of these changes are found in the specification, claims and figures, as originally filed. No new matter was added.

Claims 1-22 are pending in the above-identified application. Claim 23 is being added for the reasons outlined below.

Claims 1-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Edelson (U.S. Patent No. 4,985,952) in view of Dionne et al (U.S. Patent No. 5,645,494). With respect to Claims 1-22, the Examiner stated that the Examiner was incorporating the rejection from the previous office action.

In response, Applicant respectfully contends that the obviousness rejection under 35 U.S.C. § 103 cannot be established by combining the teachings of Edelson with Dionne as the rejection is inadequate to establish a prima facie case of obviousness. Applicant respectfully contends that the obviousness rejection under 35 U.S.C. § 103 cannot be established by combining the teachings of Edelson with Dionne but because not only is there is no suggestion or motivation in either of the cited references for modifying Edelson in the manner disclosed by Dionne, the references are neither in the same field of endeavor nor do they address the same problem.

The Office Action failed to address the individual elements of the claims, as is required by the MPEP. For example, in claim 1, the Office Action ignores that there is a symmetrical body placement guide that is

configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. While Edelson discloses a mat having an upper surface and a lower surface and four equal quadrants in a rectangular configuration adjacent to each other, the Office Action admits that Edelson fails to disclose a mirrored pattern in each quadrant or a body placement guide on the upper surface. Edelson states that the mattress disclosed in Edelson can be used as an exercise mat (see Abstract).

The rejections of Claims 1-22 were substantively and procedurally inadequate as the rejections failed to provide any basis for combining Edelson with Dionne et al. and also failed to show that the combined prior art references teach or suggest all claim limitations. With all due respect, the Office Action failed to provide any explanation as to what was the suggestion or motivation in the references rendering it obvious to use what is allegedly taught by Dionne et al. in combination with Edelson. The Office Action failed to set forth any reason as to why Edelson and Dionne should be combined. The Office Action failed to state whether the references were in the same field of endeavor or if they addressed solving the same problem. The Office Action failed to do so because the two references are neither in the same field of endeavor nor do they address the same problem. In response to Applicant's Arguments in response to the previous Office Action, the Examiner merely stated in a conclusory manner that:

Edelson can be used as an exercise mat [col. 1, lines 30 which serves the same purpose as a yoga mat for exercising.

However, the Office Action utterly failed to address the basis for combining Dionne et al. with Edelson. Even though Edelson can be used as

an exercise mat, there is nothing in Edelson that either explicitly or implicitly suggests the use of a body placement guide. Edelson addresses a generic multi-use mat upon which a human body can rest, sleep or use for exercise. Edelson failed to disclose the use of indicia, much less whether there was even any need for such indicia to be located on the mattress. The citation of Dionne is based on improper hindsight and thus may not form the basis of combining Edelson with Dionne. Dionne et al. is addressed specifically to golf mats. The Examiner cannot point to a single figure, column or line where it is suggested, explicitly or impliedly, that Dionne can be applied to a use other than for golf.

In Ruiz v. A.B. Chance Co., 234 F.3d 654 (Fed. Cir. 2000), it was held that "while the references need not expressly teach that the disclosure contained therein should be combined with another, see Motorola, Inc. v. Interdigital Tech. Corp., 121 F.3d 1461, 1472, 43 USPQ2d 1481, 1489 (Fed. Cir. 1997), the showing of combinability must be "clear and particular." In re Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. [Emphasis added]. In the instant office action, the showing of combinability is far from "clear and particular."

"For a proper obviousness combination, the prior art references must provide a suggestion or motivation to make such a combination." Heidelberg Druckmaschinen AG v. Hantscho Commercial Prods., Inc., 21 F.3d 168, 1072, 30 USPQ2d 1377, 1379 (Fed. Cir. 1994) citing Northern Telecom Inc. v. Datapoint Corp., 908 F.2d 931, 934 15 USPQ2d 1321, 1323 (Fed. Cir. 1990).

Obviousness is tested by "what the combined teachings of the references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). But obviousness "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." ACS Hosp. Sys. Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). Thus, "teachings of references can be combined only if there is some suggestion or incentive to do so." Id. Applicant, thereby, contends that there is no suggestion or incentive to combine Edelson with Dionne et al. because there is no suggestion or incentive to combine the references.

Thus, for a obviousness combination, the "critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness of making the combination.'" Fromson v. Advance Offset Place, Inc., 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985) quoting Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1453, 1452, 221 USPQ 481, 488 (Fed. Cir. 1984). In other words, the "mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." In re Gordon, 773 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) citing Carl Schenck, A.G. v. Nortron Corp., 713 F.2d 782, 787, 218 USPQ 698, 702 (Fed. Cir. 1983). The Edelson reference relates to a mattress, mat, couch, or ottoman having four rectangular cushion sections that are flexibly interconnected along certain of their top and bottom edges by hinges so that the mattress-like article can be folded and compactly stored.

Dionne includes no teaching or even suggestion that the golf mat be used as a yoga mat, or include symmetrical body placement guide on the upper surface thereof configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures. In fact, Applicant believes that it would be patently absurd to utilize such a golf mat in a yoga setting. Edelson does not suggest the desirability of a combination with Dionne because any such suggestion that Edelson should be modified comes solely from Applicant's own disclosure. Accordingly, Edelson does not suggest to one skilled in the art the desirability to use a body alignment guide.

Furthermore, the "statute, §103, requires much more, i.e., that it would have been obvious to produce the claimed invention at the time it was made without the benefit of hindsight." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1575, 1 USPQ2d 1081, 1087 (Fed. Cir. 1986). "When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) citing *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577 & n.14, 221 USPQ 929, 933 & n.14 (Fed. Cir. 1984). Applicant believes the motivation to combine Edelson with Dionne et al. derived from Applicant's invention since there is no suggestion in the cited references for the desirability of such a combination.

The Office Action fails to provide anything more than a conclusory statement that Dionne discloses indicia positioned from the longitudinal axis at a 45° angle. The golf mat of Dionne is devoid of such structure. The

Examiner attempts to ignore this by stating that the difference between the lines of Dionne forming 90 angles and the indicia of the instant claims being positioned from the longitudinal axis at a 45° angle are a mere ornamental change. As is fully described in the Specification, the body alignment guide and patterns described in the claims are no mere ornamentation, but serve a function. The Dionne reference includes no discernable indicia or lines positioned at 45° angles from either the horizontal or vertical center lines 40 and 42.

In response to Applicant's arguments, the Office Action stated:

The applicant should not that a change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

With all due respect, the Examiner fails to understand that the body placement guide and patterned design are elements of the claims and serve a function rather than being mere ornamentation, as is described in detail in the Specification. MPEP 1504.01(c) [Lack of Ornamentality] clearly states:

An ornamental feature or design has been defined as one which was 'created for the purpose of ornamenting' and cannot be the result or 'merely a by-product' of functional or mechanical considerations. In re Carletti, 328 F.2d 1020, 140 USPQ653, 654 (CCPA 1964).

The body alignment guide and patterned designs are no mere ornamentation and are entitled to consideration as claimed elements. See In re Dembiczak, 50 USPQ2d 1614 (Fed. Cir. 1999) (orange trash bag claiming facial indicia giving the appearance of a jack-o'-lantern); McGinley v. Franklin Sports, Inc., 262 F.3d 1339 (Fed. Cir. 2001) (baseball with finger placement indicia).

The Office Action further stated:

Furthermore, a mere arrangement of printed matter, though seemingly a 'manufacture,' is rejected as not being within the statutory classes. See *In re Miller*, 418 F.2d 1392, 164 USPQ 46 (CCPA 1969), *Ex parte Gwinn*, 112 USPQ 439 (Bd. App. 1955); and *In re Jones*, 373 F.2d 1007, 153 USPQ 77 (CCPA 1967). See MPEP 706.03(a).

Applicant is confused by the Office Action's apparently erroneous reference to this paragraph taken from MPEP 706.03(a) as it relates to a rejection based on 35 USC 101 and not 35 USC 103. Furthermore, the 'printed matter' referred to in the MPEP is in no way related to either the body placement guide or patterned design of the instant application.

MPEP 706.02(j) [Contents of a 35 USC 103 Rejection] clearly spells out the criteria an Examiner must meet in order to issue a rejection under 35 USC 103:

35 USC 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 USC 103, the examiner should set forth in the Office action:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,
- (B) the difference or differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and
- (D) *an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.*

To establish a *prima facie* case of obviousness, three basic criteria must be met. *First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations.* The teaching or suggestion to make the claimed combination and

reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2143-2143.03 for decisions pertinent to each of these criteria.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Capp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP 2144-2144.09 for examples of reasoning supporting obviousness rejections.

Where a reference is relied on to support a rejection, whether or not in a minor capacity, that reference should be positively included in the statement of rejection. See In re Hoch, 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407 n.3 (CCPA 1970).

It is important for an examiner to properly communicate the basis of a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. Furthermore, if an initially rejected application issues as a patent, the rationale behind an earlier rejection may be important in interpreting the scope of the patent claims. Since issued patents are presumed valid (35 USC 282) and constitute a property right (35 USC 261), the written record must be clear as to the basis for the grant. Since patent examiners cannot normally be compelled to testify in legal proceedings regarding their mental processes (See MPEP 1701.01), it is important that the written record clearly explain the rationale for decisions made during prosecution of the application. [emphasis added]

The Office Action failed to provide a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done and the Office Action has failed to provide such a suggestion. As stated in MPEP 2143.01 [Suggestion or Motivation to Modify the References]:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the

desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The Office Action failed to properly communicate the basis of the rejections so that the issues could be identified early and the Applicant given fair opportunity to reply. Thus, the rejections were procedurally improper.

Therefore, because Applicants contend that the combination of Edelson and Dionne et al. was both substantively and procedurally improper, Applicants respectfully request reconsideration and withdrawal of the rejections to Claims 1-22 under 35 U.S.C. § 103(a).

FINALITY

The finality of the Office Action should be withdrawn. In the previous office action, dated October 09, 2001, the rejections of Claims 1-22 were procedurally inadequate, as described above. The instant Office Action did not even attempt to compensate for this procedurally inadequacy by at least citing a motivation or suggestion to combine the references. The instant Office Action merely incorporated by reference the rejections from the earlier office action. The Office Action failed to provide a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The initial burden was on the Examiner to provide some suggestion of the desirability of doing what the inventor has done and the Examiner failed to do so. When an Office Action fails to properly communicate the basis of a rejection so that the issues are identified early and the Applicant given fair opportunity to reply, the rejection is procedurally improper. The Office Action failed to state the specific or implied basis for the alleged suggestion in Edelson or Dionne et al. that Edelson could be

modified. MPEP 2143.01 requires the Examiner to provide a basis for combining the references. To date, the Examiner has not done so. Therefore, it was improper for the Examiner to make the instant office action final. Applicants respectfully request reconsideration and withdrawal of the finality of the instant office action.

INTERFERENCE

Applicant respectfully requests the U.S. Patent and Trademark Office to declare an interference between the instant application and Marquez, pursuant to MPEP 2306, 2309 or whichever section of the MPEP the Examiner deems appropriate under the circumstances. Applicant claims the same patentable invention as is claimed in Marquez. A copy of Marquez is submitted herewith as part of an Information Disclosure Statement.

New Claim 23 substantially corresponds to claim 9 of Marquez (US 6,387,013), filed March 3, 2000 and issued May 14, 2002. The instant application was filed January 19, 2001 and claims priority from provisional application Serial No. 60/177,512, filed January 21, 2000; and provisional application Serial No. 60/229,868, filed August 30, 2000.

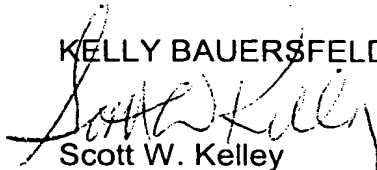
The subject matter of Claim 23 was fully disclosed in the figures, specification, and claims of the instant application, as originally filed. No new matter was added.

CONCLUSION

Applicant believes that the foregoing amendments and argument distinguish the claims of the present invention from the prior art references. Accordingly, Applicant believes that all pending claims 1-23 are in condition for allowance, notice of which is hereby respectfully requested.

Respectfully submitted,

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Registration No. 30,762

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CLEAN VERSION OF ALL PENDING CLAIMS

The following is a clean version of the entire set of pending claims. In accordance with 37 CFR 1.121 (c)(1)(ii),

1. A yoga mat, comprising:
an elongated mat having an upper surface and a lower surface; and
a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures, the body placement guide including:
a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis, and indicia positioned from the longitudinal axis at a forty-five degree angle; and
four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants; the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants.
3. The yoga mat of claim 1, wherein the indicia comprises a line extending from the longitudinal axis at a forty-five degree angle.
4. The yoga mat of claim 1, wherein the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle.
5. The yoga mat of claim 4, wherein the indicia comprises a line extending from the transverse axis at a forty-five degree angle.
6. The yoga mat of claim 1, wherein the patterned design defines multiple segments of equal area parallel to the transverse axis.
7. The yoga mat of claim 1, wherein the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

8. The yoga mat of claim 1, wherein the patterned design includes step indicia within each quadrant.

9. The yoga mat of claim 8, wherein the step indicia are created by intersecting lines forming a ninety degree angle.

10. The yoga mat of claim 1, wherein the elongated mat has a rectangular configuration.

11. A yoga mat, comprising:

an elongated mat having an upper surface and a lower surface; and

a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures, the body placement guide including:

a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis; and

four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants;

wherein the patterned design includes indicia positioned from the longitudinal axis at a forty-five degree angle; and

wherein the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle.

12. The yoga mat of claim 11, wherein the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines.

13. The yoga mat of claim 11, wherein the patterned design defines multiple segments of equal area parallel to the transverse axis.

14. The yoga mat of claim 11, wherein the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

15. The yoga mat of claim 11, wherein the patterned design includes step indicia within each quadrant.

16. The yoga mat of claim 15, wherein the step indicia are created by intersecting lines forming a ninety degree angle.

17. The yoga mat of claim 1, wherein the elongated mat has a rectangular configuration.

18. A yoga mat, comprising:
an elongated mat having a rectangular configuration, an upper surface and a lower surface; and
a symmetrical body placement guide on the upper surface of the mat and configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures, the body placement guide including:
a patterned design defining a longitudinal axis substantially extending the length of and bisecting the upper surface, the patterned design further defining a transverse axis bisecting the longitudinal axis; and
four equal quadrants defined by the longitudinal axis and the transverse axis, each quadrant being adjacent to two other quadrants, the patterned design in each quadrant being a mirror image of the patterned design of the two adjoining quadrants;
wherein the patterned design includes indicia positioned from the longitudinal axis at a forty-five degree angle;
wherein the patterned design includes indicia positioned from the transverse axis at a forty-five degree angle; and
wherein the patterned design includes step indicia within each quadrant.

19. The yoga mat of claim 18, wherein the indicia extending from the longitudinal axis and transverse axis at a forty-five degree angle comprise lines.

20. The yoga mat of claim 18, wherein the patterned design defines multiple segments of equal area parallel to the transverse axis.

21. The yoga mat of claim 18, wherein the patterned design defines multiple segments of equal area parallel to the longitudinal axis.

22. The yoga mat of claim 18, wherein the step indicia are created by intersecting lines forming a ninety degree angle.

23. A yoga mat, comprising:

- a mat comprised of a flat structure having an upper surface, a lower surface and a longitudinal axis;

- a first center line positioned upon said upper surface of said mat;

- a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line;

- a plurality of first lines parallel to said first center line;

- a plurality of second lines parallel to said second center line;

- wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area on opposing sides of said second center line wherein each set of said four quadrants has a center point; and

- a plurality of markers wherein a single marker is located on selected intersections of said plurality of second lines with said first line and at each said center point of each set of four quadrants.

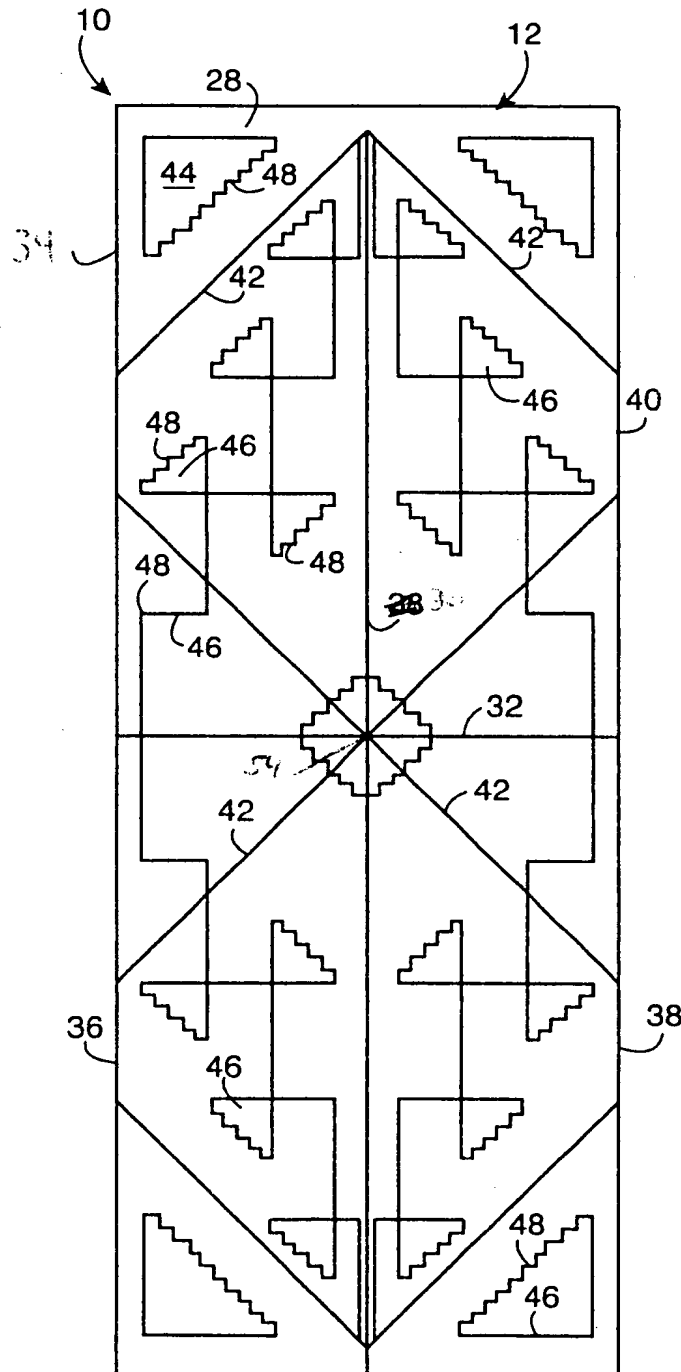


FIG. 1

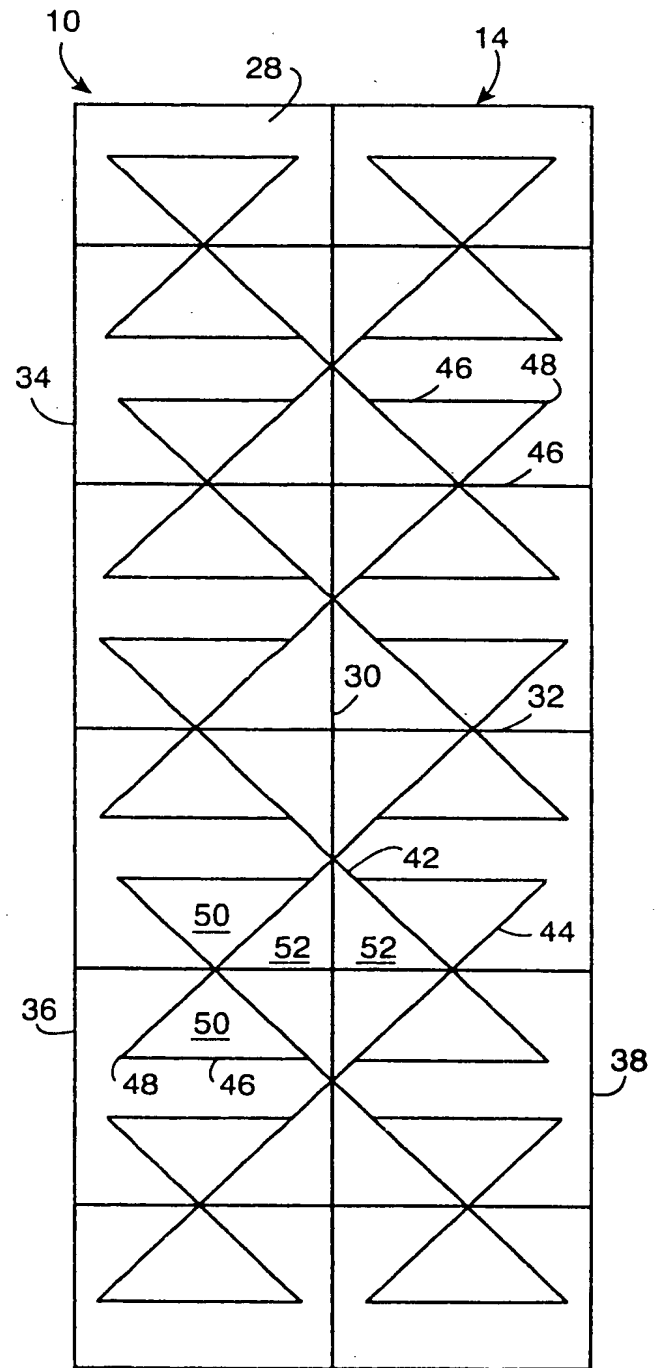


FIG. 2

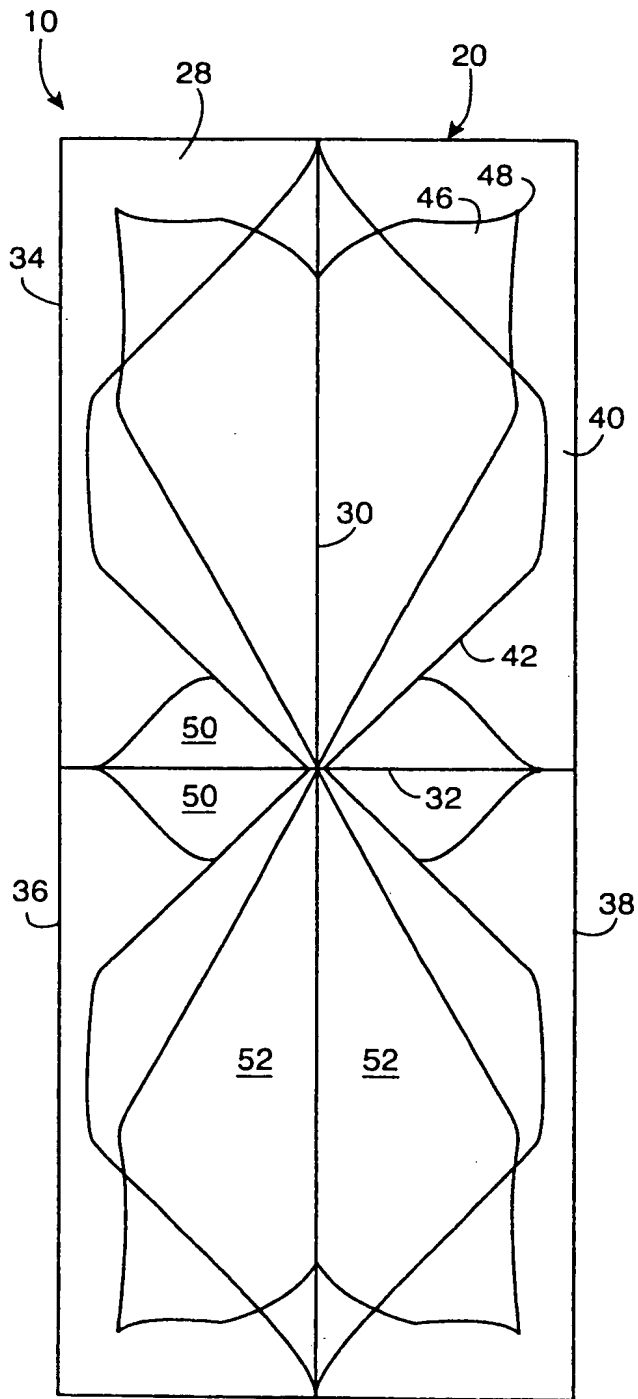


FIG. 5

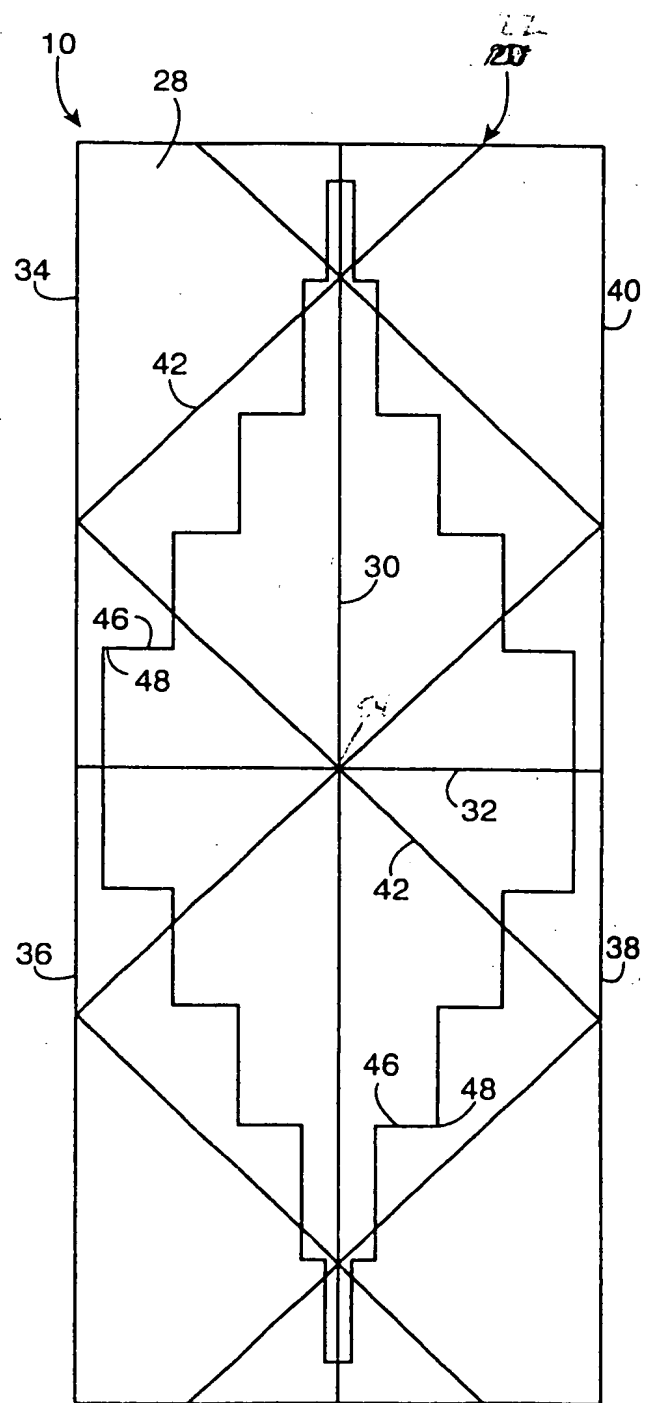


FIG. 6

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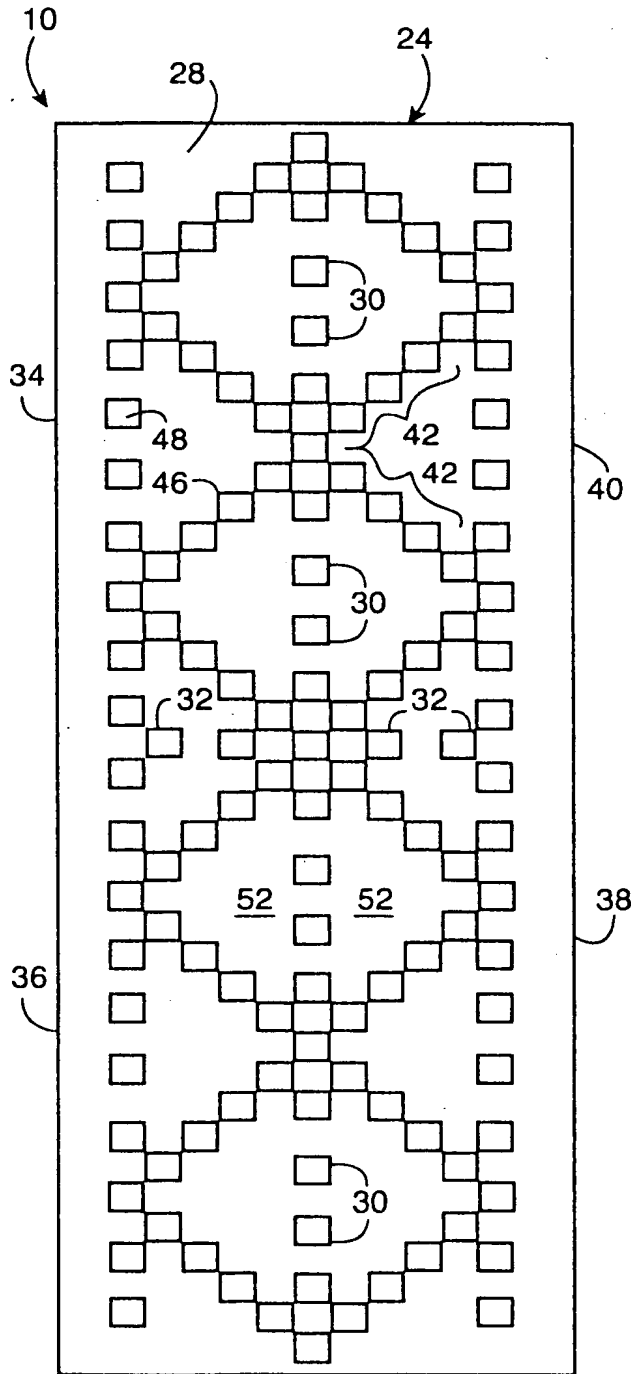


FIG. 7

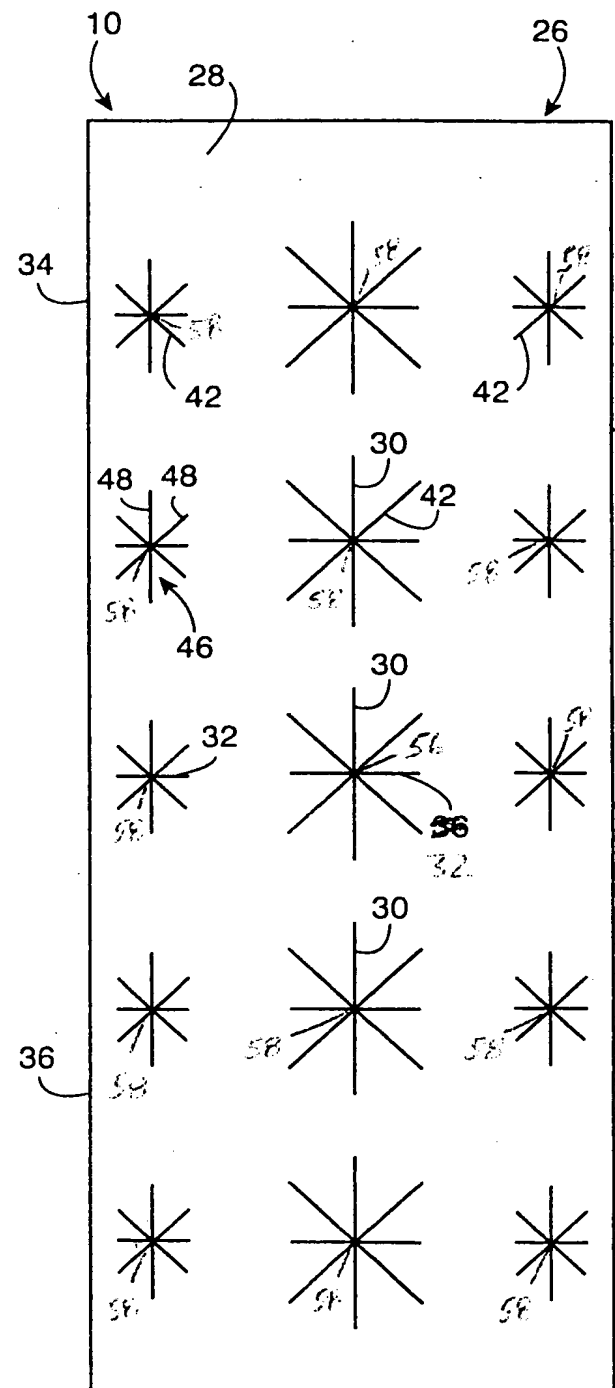


FIG. 8



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,533	01/19/2001	Helen Hardman Howlett-Campanella	HOWLETT-38283	1419

7590 07/09/2003

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EXAMINER

AMERSON, LORI BAKER

ART UNIT PAPER NUMBER

3764

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
JUL 12 2003
KELLY BAUERSFELD LOWRY & KELLEY

D

Interview Summary

Application No.

09/765,533

Applicant(s)HOWLETT-CAMPANELLA,
HELEN HARDMAN**Examiner**

Lori Baker Amerson

Art Unit

3764

All participants (applicant, applicant's representative, PTO personnel):

(1) Lori Baker Amerson. (3) _____

(2) Matthew Sparks, applicant's representative. (4) _____

Date of Interview: 08 July 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1 and 23.

Identification of prior art discussed: Dionne.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☐ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner provided a follow-up response to the applicant's arguments regarding the new matter rejection and the recitation of a 45 degree angle in the independent claims (refer to previous correspondence for details). The Examiner consulted with Nick Lucchesi, Supervisor, and concluded that the rejection, Paper No. 13 stands. The supervisor indicated that the limitations regarding the markers was not previously disclosed and is therefore considered new matter. As broadly as interpreted, the Dionne reference reads on the limitation regarding "indicia positioned from the longitudinal axis at a forty-five degree angle". To further explain the comments from the Supervisor, an example is given: if a line is drawn from the longitudinal axis [Dionne] at a 45 degree angle, the indicia or grid pattern [of Dionne] would intercept, or be positioned at any location [at that angle]. The applicant's representative argued that the rejection regarding the 45 degree angle limitation was not explained in sufficient detail in the previous office action.

Matthew Spark

From: Amerson, Lori [Lori.Amerson@USPTO.GOV]
Sent: Wednesday, June 18, 2003 10:59 AM
To: Lucchesi, Nick
Cc: matthew@kblk.com
Subject: 09/765,533

Nick,

Matthew Sparks, attorney for the above-mentioned yoga mat application, telephoned indicating that he had spoke with you on a previous occasion regarding a new matter issue and an improper rejection over Dionne (reference). I'd like to discuss this case with you when you return.

Lori

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

)	Group Art Unit: 3764
)	
In re Application of)	Examiner: Amerson, L.
)	
Helen Hardman Howlett-Campanella)	
)	
Serial No. 09/765,533)	Docket No. HOWL-38283
)	
Filed: January 19, 2001)	
)	
For: YOGA MAT WITH BODY CONTACT)	
PLACEMENT INDICIA)	
)	

DECLARATION OF HELEN HOWLETT CAMPANELLA

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Helen Howlett Campanella, declare as follows:

1. I am the inventor of the above-identified non-provisional application for patent.
2. I designed the numerous pattern designs for yoga mats shown in the figures of the provisional applications 60/177,512 (filed January 21, 2000) and 60/229,868 (filed August 30, 2000).
3. One feature shown in various figures of the provisional applications are circular indicia that appear at the intersection of various lines in the figures.

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4. These circular indicia were intentionally shown in the drawings of the provisional applications.

5. When the formal drawings of the non-provisional application were created, these circular indicia were intentionally included in the figures of the non-provisional application.

6. I reviewed the figures prior to the filing of the non-provisional application; figures which clearly include the circular indicia at several intersections of lines.

7. These circular indicia, identified as markers 54, 56 and 58 in the specification, are not an accidental drawing by-product of several lines intersecting but were intentionally included in the figures.

8. My application is directed to a yoga mat.

9. Dionne et al. (U.S. Patent No. 5,645,494) is directed to a golf mat.

10. Dionne fails to disclose a yoga mat; only a golf mat.

11. No yoga practitioner would use the golf mat of Dionne to conduct yoga exercises.

12. My invention is directed to a yoga mat that includes a symmetrical body placement guide on the upper surface of the mat configured to aid a yoga practitioner to properly align the practitioner's body during yoga postures.

13. A review of Dionne amply illustrates that the structure and surface of the Dionne golf mat are simply not suitable for the practice of yoga.

14. The surface of the Dionne golf mat is covered with a harsh Astroturf (col. 3, lines 42-46) and, as shown in Figures 2a and 2b, is not conducive to the type of full-body exercises associated with yoga.

15. Additionally, the golf mat of Dionne is directed only for standing and swinging of a golf club (col. 4, lines 4-22) and yoga practitioners are well aware that yoga involves all parts of the body and many different positions.

16. A standing position is only one part of yoga and even then, the golf mat of Dionne would not be appropriate for yoga exercises that involve standing.

17. While the golf mat of Dionne may be useful for aiding a golf player to adjust the placement of his/her feet (col. 4, lines 4-14), a yoga mat must be useful for the entire body.

18. A fundamental part of yoga is moving the body into various positions using combinations of various movements; movements which can involve all parts of the human body which can be in contact with the mat while only the feet of a user contact a golf mat.

19. A large portion of a yoga practitioner's body can be in contact with the yoga mat in prone, supine or sitting positions.

20. Even if the yoga practitioner is up off the floor, the yoga practitioner may be standing, kneeling on hands and feet, hands and knees, headstand, elbow stand, handstand and so on as there are over one thousand yoga postures.

21. As a matter of structure, design, comfort and functionality, the golf mat of Dionne et al. is simply not suitable for use as a yoga mat, nor is there any suggestion in Dionne et al. that anyone would ever contemplate using that golf mat as a yoga mat.

22. The undersigned declares that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such false statements may jeopardize the validity of the application or any registration resulting thereon.

Dated: October 6, 2003 By:


Helen Howlett Campanella

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

)	Group Art Unit: 3764
)	
In re Application of)	Examiner: Amerson, L.
)	
Helen Hardman Howlett-Campanella)	
)	
Serial No. 09/765,533)	Docket No. HOWL-38283
)	
Filed: January 19, 2001)	
)	
For: YOGA MAT WITH BODY CONTACT)	
PLACEMENT INDICIA)	
)	

DECLARATION OF ALEEN B. FERRIS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Aleen B. Ferris, declare as follows:

1. I am a professional draftsperson. I am a Technical Illustrator with A.B. Johnson, Inc., 1595 Bodie Avenue, Simi Valley, CA 93065.
2. I drafted the formal figures of the above-identified application.
3. I drafted the formal figures using the figures of the provisional applications 60/177,512 (filed January 21, 2000) and 60/229,868 (filed August 30, 2000); condensing various features of the numerous provisional application figures into a select number of formal drawing figures.
4. I drafted the figures using Adobe Illustrator, a very well-known drafting program.

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5. Various figures of the above-identified include circular indicia at several different intersections of lines.

6. These circular indicia were shown in the drawings of the provisional applications as originally filed.

7. I incorporated these circular indicia into the formal drawings of the non-provisional application. These circular indicia are identified by reference numbers 54, 56 and 58 in the specification and figures as amended by the Applicant.

8. The circular indicia identified by reference numbers 54, 56 and 58 are not an accidental drawing by-product of several lines intersecting but were intentionally included in the figures.

9. I have reviewed the amendments made by the Applicant's attorney to the figures in the Response filed August 14, 2002, attached as 'C'. The amendments are correct except for a single error. While the circular indicia in FIG. 8 are properly identified by reference numbers 56 and 58 at the intersections of the longitudinal axis 30 (i.e., the center vertical lines) with various lines, the reference numbers 58 that point to the intersections of the lines that are parallel to the left or right of the longitudinal axis 30 are incorrect. A corrected version of Figure 8 to be submitted for approval by the Board/Examiner is attached herewith.

10. Otherwise, the amendments made to the figures incorporating reference numbers 54, 56 and 58 pointing to various circular indicia are correct.

11. The undersigned declares that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such false statements may jeopardize the validity of the application or any registration resulting thereon.

Dated: October 3, 2003 By:

Aleen B. Ferris

11. The undersigned declares that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such false statements may jeopardize the validity of the application or any registration resulting thereon.

Dated: October 3, 2003 By:



Aleen B. Ferris

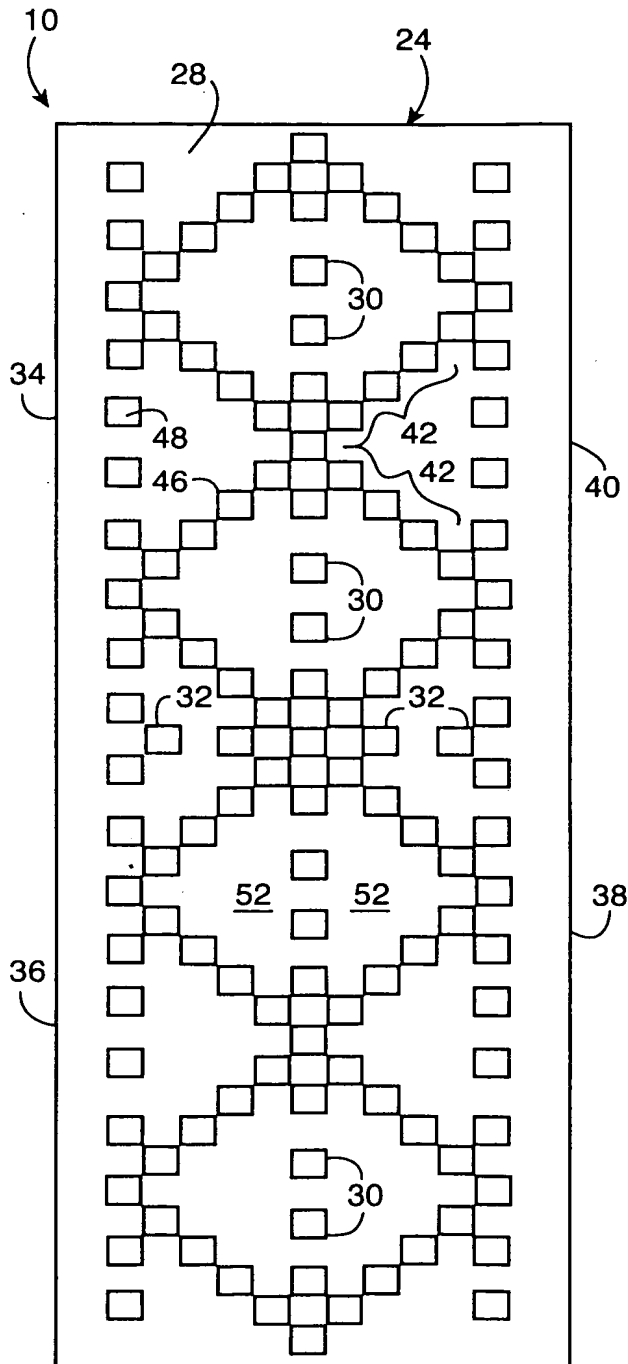


FIG. 7

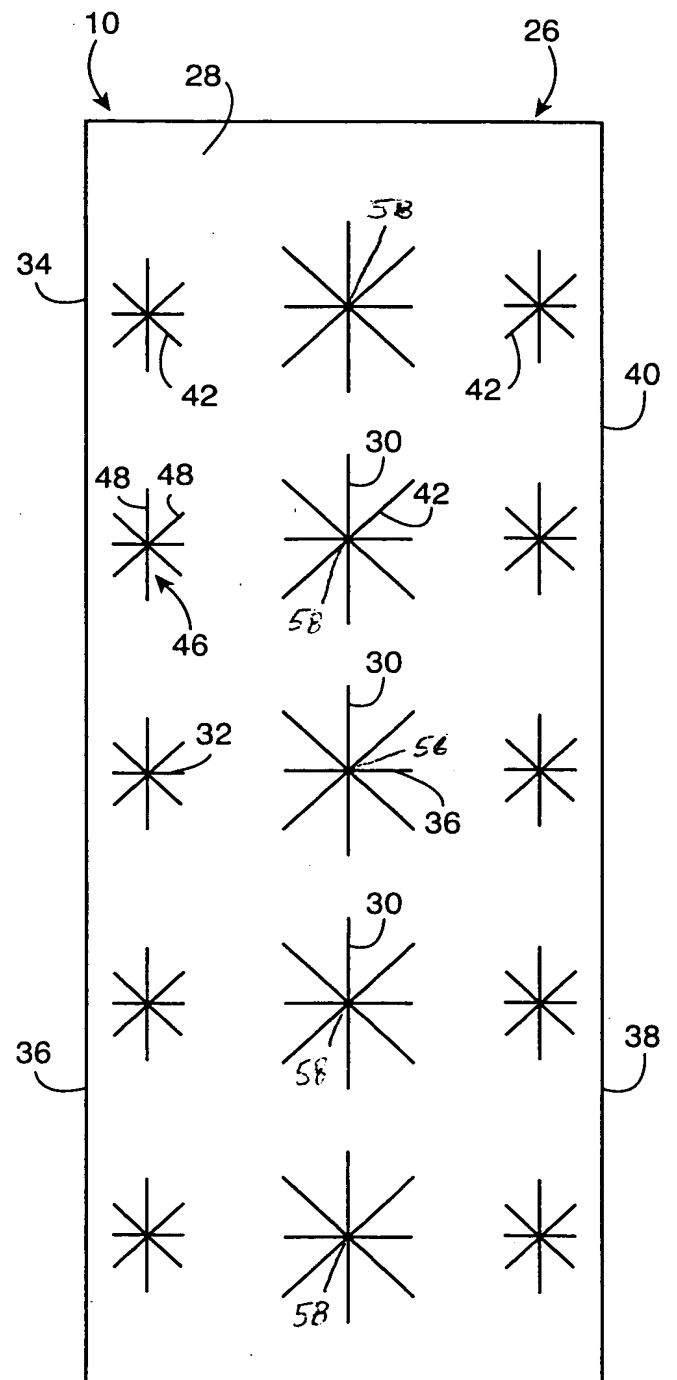


FIG. 8



US006387013B1

(12) **United States Patent**
Marquez

(10) **Patent No.: US 6,387,013 B1**
(45) **Date of Patent: May 14, 2002**

(54) **EXERCISE ALIGNMENT MAT SYSTEM**

(76) **Inventor:** Jean Pierre Marquez, 3030 N. Santa Ana La., Tucson, AZ (US) 85749

(*) **Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) **Appl. No.:** 09/518,330

(22) **Filed:** Mar. 3, 2000

(51) **Int. Cl.⁷** A63B 26/00

(52) **U.S. Cl.** 482/23; D6/582; 473/278

(58) **Field of Search** D21/686, 687, D21/191-199; D6/582, 583, 588, 594; 482/23, 137, 138; 5/465, 12.2, 420, 344; 273/444; 473/266, 270, 278, 414

(56) **References Cited**

U.S. PATENT DOCUMENTS

5,645,494 A * 7/1997 Dionne et al. 473/278

* cited by examiner

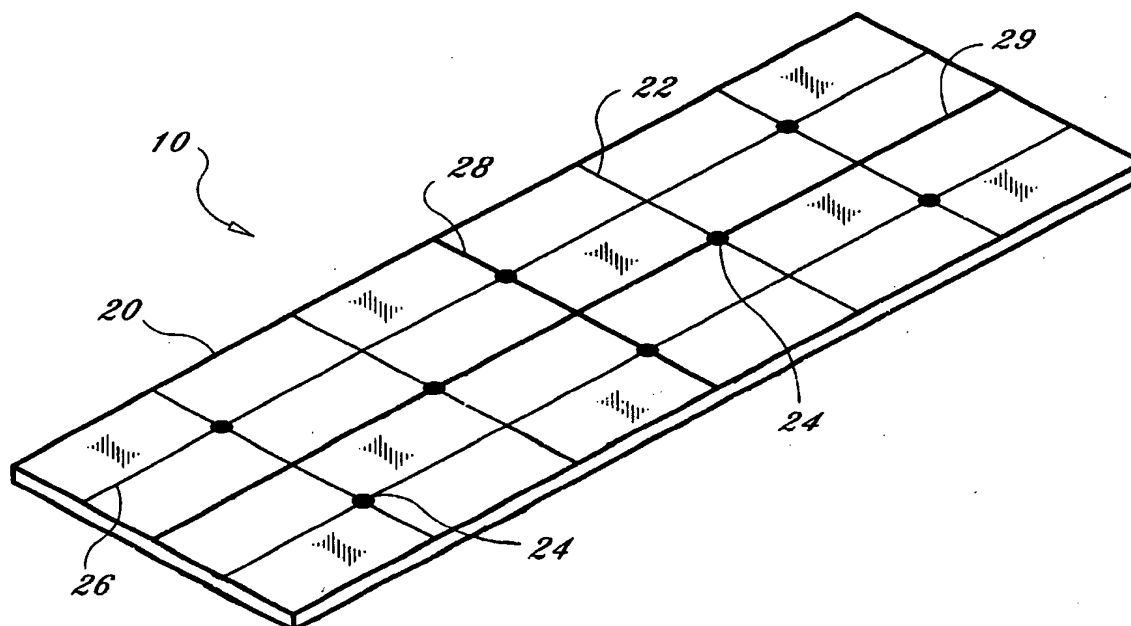
Primary Examiner—Michael A. Brown

Assistant Examiner—Tam Nguyen

(57) **ABSTRACT**

An exercise alignment mat system for providing reference to an individual performing an exercise such as yoga. The inventive device includes a mat having a first center line, a second center line orthogonal to the first center line, a plurality of first lines parallel to the first center line, and a plurality of second lines parallel to the second center line. The mat is a flat structure which may be comprised of a resilient and cushioned material. A plurality of markers may be positioned at the intersection of the lines for increased visual references. The student is able to have a visual reference regarding the respective position of their feet, hands and body during an exercise. In an alternative embodiment, the mat includes a first extended portion and a second extended portion on opposite sides of the mat.

12 Claims, 4 Drawing Sheets



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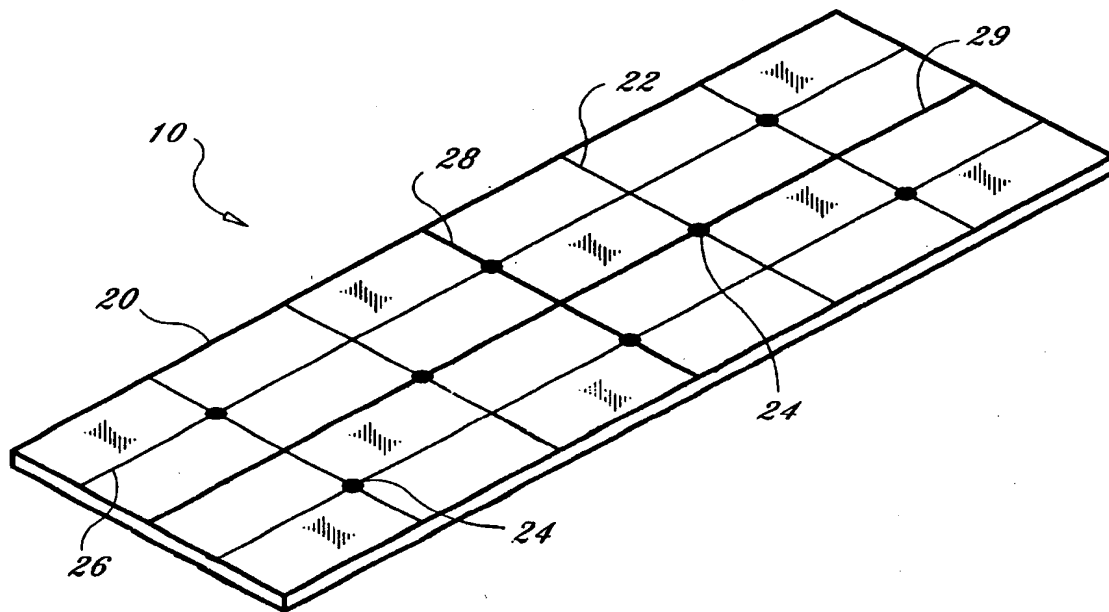


FIG. 1

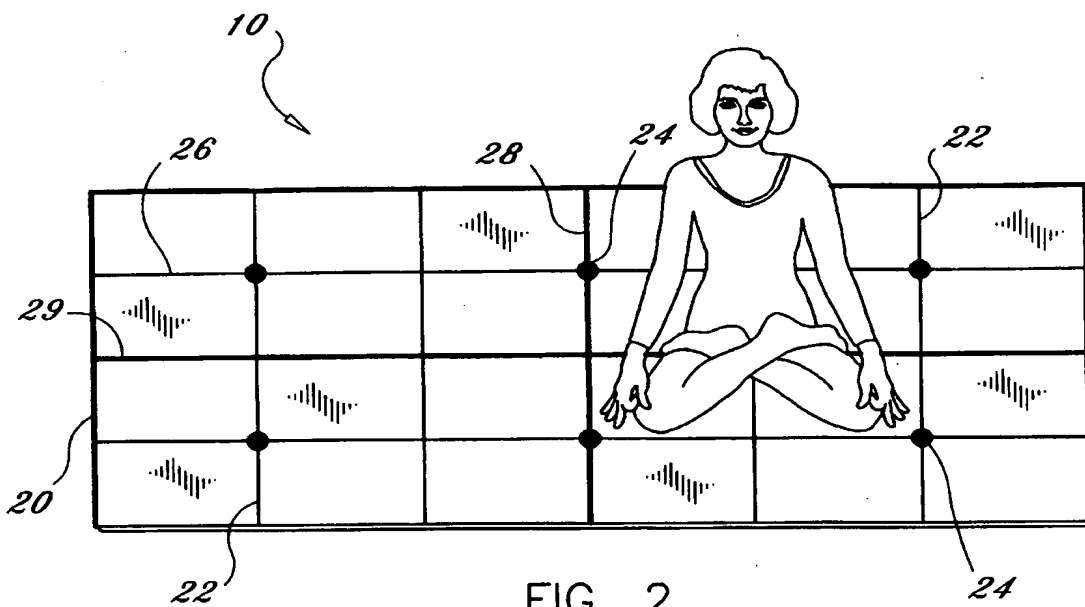
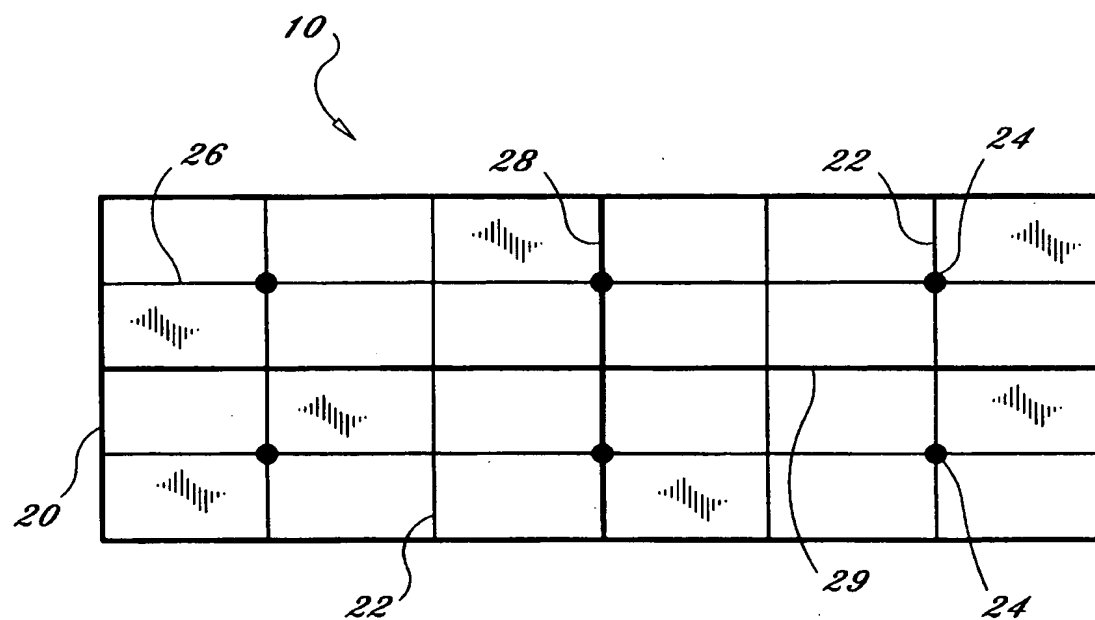


FIG. 2



FIG. 3

FIG. 4

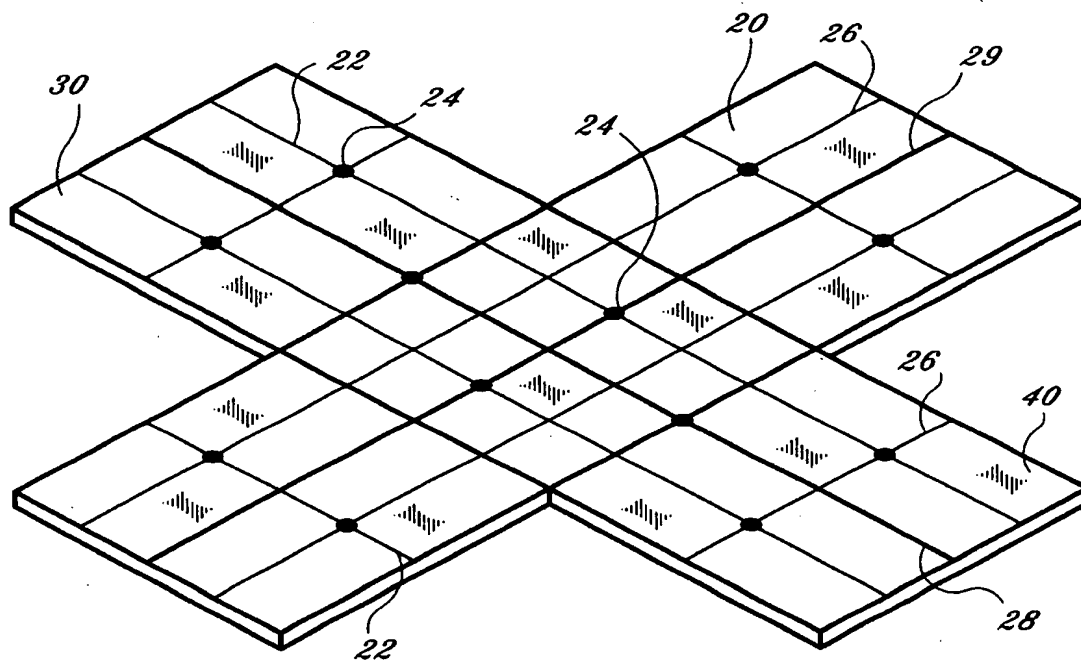


FIG. 5

EXERCISE ALIGNMENT MAT SYSTEM**BACKGROUND OF THE INVENTION****1. Field of the Invention**

The present invention relates generally to exercise mats and more specifically it relates to an exercise alignment mat system for providing reference to an individual performing an exercise such as yoga.

2. Description of the Prior Art

Exercise mats have been in use for years. Typically, a conventional exercise mat is comprised of a flat structure. The conventional exercise mat is typically constructed of a foam rubber material. Most conventional exercise mats have a rectangular shape, however various other shapes are also utilized.

The main problem with conventional exercise mats is that they do not provide a reference point for the individual during exercises. Hence, if an instructor informs a class to rotate their bodies 90 degrees it is often times difficult for the individual to accurately rotate their body.

Examples of patented mat devices include U.S. Pat. No. 4,805,913 to Bott; U.S. Pat. No. 355,226 to Wadley; U.S. Pat. No. 393,499 to Brown; U.S. Pat. No. 397,269 to Kawamoto; U.S. Pat. No. 291,586 to Bourret which are all illustrative of such prior art.

While these devices may be suitable for the particular purpose to which they address, they are not as suitable for providing reference to an individual performing an exercise such as yoga. Conventional exercise mats do not provide a reference point for the individual exercising leaving the individual to estimate or guess the relative positions of their body during an exercise such as yoga.

In these respects, the exercise alignment mat system according to the present invention substantially departs from the conventional concepts and designs of the prior art, and in so doing provides an apparatus primarily developed for the purpose of providing reference to an individual performing an exercise such as yoga.

SUMMARY OF THE INVENTION

In view of the foregoing disadvantages inherent in the known types of exercise mats now present in the prior art, the present invention provides a new exercise alignment mat system construction wherein the same can be utilized for providing reference to an individual performing an exercise such as yoga.

The general purpose of the present invention, which will be described subsequently in greater detail, is to provide a new exercise alignment mat system that has many of the advantages of the exercise mats mentioned heretofore and many novel features that result in a new exercise alignment mat system which is not anticipated, rendered obvious, suggested, or even implied by any of the prior art exercise mats, either alone or in any combination thereof.

To attain this, the present invention generally comprises a mat having a first center line, a second center line orthogonal to the first center line, a plurality of first lines parallel to the first center line, and a plurality of second lines parallel to the second center line. The mat is a flat structure which may be comprised of a resilient and cushioned material. A plurality of markers may be positioned at the intersection of the lines for increased visual references. The student is able to have a visual reference regarding the respective position of their feet, hands and body during an exercise. In an alternative embodiment, the mat includes a first extended portion and a second extended portion on opposite sides of the mat.

There has thus been outlined, rather broadly, the more important features of the invention in order that the detailed description thereof may be better understood, and in order that the present contribution to the art may be better appreciated. There are additional features of the invention that will be described hereinafter and that will form the subject matter of the claims appended hereto.

In this respect, before explaining at least one embodiment of the invention in detail, it is to be understood that the invention is not limited in its application to the details of construction and to the arrangements of the components set forth in the following description or illustrated in the drawings. The invention is capable of other embodiments and of being practiced and carried out in various ways. Also, it is to be understood that the phraseology and terminology employed herein are for the purpose of the description and should not be regarded as limiting.

A primary object of the present invention is to provide an exercise alignment mat system that will overcome the shortcomings of the prior art devices.

A second object is to provide an exercise alignment mat system for providing reference to an individual performing an exercise such as yoga.

Another object is to provide an exercise alignment mat system that is self-contained within a single structure.

An additional object is to provide an exercise alignment mat system that increases a yoga student's awareness of their relative body positions.

A further object is to provide an exercise alignment mat system that allows a yoga student to correct their body alignment without guessing their position.

Another object is to provide an exercise alignment mat system that makes it easier for a yoga student to follow instructions from an instructor such as "turn your left foot 90 degrees" or "keep your feet parallel to one another".

A further object is to provide an exercise alignment mat system that increases the accuracy of a yoga student's foot placement and body movement.

Another object is to provide an exercise alignment mat system that maintains the placement of feet, hands and body in correct alignment during an exercise.

An additional object is to provide an exercise alignment mat system that makes it easier for a teacher to insure that all of the students are correctly positioned and aligned during an exercise without requiring the instructor to individually correct each individual student.

A further object is to provide an exercise alignment mat system that is a visual tool to practice technique safely and correctly.

Another object is to provide an exercise alignment mat system that can be utilized by teachers and students of various types of exercises.

Other objects and advantages of the present invention will become obvious to the reader and it is intended that these objects and advantages are within the scope of the present invention.

To the accomplishment of the above and related objects, this invention may be embodied in the form illustrated in the accompanying drawings, attention being called to the fact, however, that the drawings are illustrative only, and that changes may be made in the specific construction illustrated and described within the scope of the appended claims.

BRIEF DESCRIPTION OF THE DRAWINGS

Various other objects, features and attendant advantages of the present invention will become fully appreciated as the

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same becomes better understood when considered in conjunction with the accompanying drawings, in which like reference characters designate the same or similar parts throughout the several views, and wherein:

FIG. 1 is an upper perspective view of the present invention.

FIG. 2 is a top perspective view of the present invention.

FIG. 3 is a side view of the present invention.

FIG. 4 is a top view of the present invention.

FIG. 5 is an alternative embodiment of the present invention comprised of a cross shape.

DESCRIPTION OF THE PREFERRED EMBODIMENT

Turning now descriptively to the drawings, in which similar reference characters denote similar elements throughout the several views, FIGS. 1 through 5 illustrate an exercise alignment mat system 10, which comprises a mat 20 having a first center line 28, a second center line 29 orthogonal to the first center line 28, a plurality of first lines 22 parallel to the first center line 28, and a plurality of second lines 26 parallel to the second center line 29. The mat 20 is a flat structure which may be comprised of a resilient and cushioned material. A plurality of markers 24 may be positioned at the intersection of the lines for increased visual references. The student is able to have a visual reference regarding the respective position of their feet, hands and body during an exercise. In an alternative embodiment, the mat 20 includes a first extended portion 30 and a second extended portion 40 on opposite sides of the mat 20.

As shown in FIGS. 1, 2 and 4 of the drawings, the mat 20 is a rectangular shaped structure having an elongated portion that includes a longitudinal axis. The mat 20 includes a lower surface and an upper surface. The mat 20 is preferably a flat structure as shown in FIG. 3 of the drawings. The mat 20 may be constructed of any well-known material. The mat 20 may be resilient and flexible or any other physical property.

As shown in FIGS. 1, 2 and 4 of the drawings, a second center line 29 is positioned upon the upper surface of the mat 20. As further shown in the figures, the second center line 29 is aligned along a center line of the mat 20 parallel to the longitudinal axis of the mat 20.

As shown in FIGS. 1, 2 and 4 of the drawings, a first center line 28 is positioned upon the upper surface of the mat 20. The first center line 28 is orthogonal to the second center line 29 and crosses the second center line 29 near a center point of the mat 20 as best shown in FIG. 4 of the drawings. The center lines 28, 29 divide the upper surface of the mat 20 into four quadrants as shown in FIG. 4 of the drawings.

As shown in FIGS. 1, 2 and 4 of the drawings, a plurality of first lines 22 are positioned upon the upper surface of the mat 20. As best shown in FIG. 4, the first lines 22 are parallel to the first center line 28. The first lines 22 are positioned on both sides of the first center line 28 as further shown in the figures. The first lines 22 cross the second center line 29 as shown in FIG. 4 of the drawings.

As shown in FIGS. 1, 2 and 4 of the drawings, a plurality of second lines 26 are positioned upon the upper surface of the mat 20. As best shown in FIG. 4, the second lines 26 are parallel to the second center line 29. The second lines 26 are positioned on both sides of the second center line 29 as further shown in the figures. As further shown in FIG. 4 of the drawings, the second lines 26 cross the first center line 28 and the first lines 22 forming a plurality of rectangular

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shaped boxes. As further shown in FIGS. 1, 2 and 4 of the drawings, the first center line 28 and the second center line 29 are preferably thicker and darker than the first lines 22 and the second lines 26 for increased visual reference for the student.

As shown in FIGS. 1, 2 and 4 of the drawings, a plurality of markers 24 may be positioned at the intersection of the lines 22, 26, 28, 29. The markers 24 may be circular shaped, rectangular shaped, square shaped or any other shape. The markers 24 are preferably comprised of a solid color for providing an increased visual reference.

In an alternative embodiment shown in FIG. 5 of the drawings, a first extended portion 30 extends from a side of the mat 20 orthogonal to the longitudinal axis of the mat 20. A second extended portion 40 extends from the mat 20 opposite of the first extended portion 30 for providing a cross shaped structure. As shown in FIG. 5 of the drawings, the lines 22, 26, 28 extend upon the upper surface of the extended portions 30, 40.

In use, the student positions their hands and/or feet upon the upper surface of the mat 20. The instructor provides instructions to the student on how to reposition their body. For example, if the student has both of their feet parallel to one another aligned parallel to the first lines 22, if the instructor informs the student to rotate their right foot 90 degrees, the student would reposition their right foot to become parallel to the second lines 26 while maintaining their left foot in parallel alignment with the first lines 22. This process continues until the exercise routine is finished after which the student may roll or fold up the mat 20 into a compact storage structure.

As to a further discussion of the manner of usage and operation of the present invention, the same should be apparent from the above description. Accordingly, no further discussion relating to the manner of usage and operation will be provided.

With respect to the above description then, it is to be realized that the optimum dimensional relationships for the parts of the invention, to include variations in size, materials, shape, form, function and manner of operation, assembly and use, are deemed to be within the expertise of those skilled in the art, and all equivalent structural variations and relationships to those illustrated in the drawings and described in the specification are intended to be encompassed by the present invention.

Therefore, the foregoing is considered as illustrative only of the principles of the invention. Further, since numerous modifications and changes will readily occur to those skilled in the art, it is not desired to limit the invention to the exact construction and operation shown and described, and accordingly, all suitable modifications and equivalents may be resorted to, falling within the scope of the invention.

I claim:

1. An exercise alignment mat system, comprising:

- a mat comprised of a flat structure having an upper surface, a lower surface and a longitudinal axis;
- a first center line positioned upon said upper surface of said mat;
- a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line;
- a plurality of first lines parallel to said first center line;
- a plurality of second lines parallel to said second center line;

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wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area with three of said sets of four quadrants on each opposing side of said second center line wherein each set of said four quadrants has a center point;

wherein said first center line and said second center line are thicker than said plurality of first lines and said plurality of second lines;

wherein said first center line and said second center line are darker than said plurality of first lines and said plurality of second lines; and

a single marker upon selected intersections of said plurality of second lines with said first center line and at each said center point of each set of said four quadrants.

2. The exercise alignment mat system of claim 1, wherein said first center line and said second center line are a different color than said plurality of first lines and said plurality of second lines.

3. The exercise alignment mat system of claim 1, wherein said markers are circular shaped.

4. The exercise alignment mat system of claim 1, wherein said markers are square shaped.

5. An exercise alignment mat system, comprising:

a mat comprise of a flat structure having an upper surface, a lower surface and a longitudinal axis;

said mat further including a first extended portion extending orthogonal with respect to said longitudinal axis, and a second extended portion extending opposite of said first extended portion and orthogonal with respect to said longitudinal axis;

a first center line positioned upon said upper surface of said mat;

a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line;

a plurality of first lines parallel to said first center line;

a plurality of second lines parallel to said second center line;

wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into 12 non-overlapping sets of four quadrants defining a unit area with six of said sets of four quadrants on each opposing side of said second center line wherein each set of said four quadrants has a center point;

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wherein said first center line and said second center line are thicker than said plurality of first lines and said plurality of second lines;

wherein said first center line and said second center line are darker than said plurality of first lines and said plurality of second lines; and

a single marker upon selected intersections of said plurality of second lines with said first center line and at said center point of selected sets of said four quadrants.

6. The exercise alignment mat system of claim 5, wherein said first center line and said second center line are a different color than said plurality of first lines and said plurality of second lines.

7. The exercise alignment mat system of claim 5, wherein said markers are circular shaped.

8. The exercise alignment mat system of claim 5, wherein said markers are square shaped.

9. An exercise alignment mat system, comprising:

a mat comprised of a flat structure having an upper surface, a lower surface and a longitudinal axis;

a first center line positioned upon said upper surface of said mat;

a second center line positioned upon said upper surface of said mat parallel to said longitudinal axis and orthogonal with respect to said first center line, wherein said second center line intersects said first center line;

a plurality of first lines parallel to said first center line;

a plurality of second lines parallel to said second center line;

wherein said first center line, said second center line, said plurality of first lines and said plurality of second lines provide a plurality of rectangles upon said mat, wherein said plurality of rectangles are separated into six non-overlapping sets of four quadrants defining a unit area on opposing sides of said second center line with each set of said four quadrants has a center point; and

a single markers upon selected intersections of said plurality of second lines with said first center line and at each said center point of each set of said four quadrants.

10. The exercise alignment mat system of claim 9, wherein said first center line and said second center line are a different color than said plurality of first lines and said plurality of second lines.

11. The exercise alignment mat system of claim 9, wherein said markers are circular shaped.

12. The exercise alignment mat system of claim 9, wherein said markers are square shaped.

* * * * *



US005645494A

United States Patent [19]

Dionne et al.

[11] Patent Number: **5,645,494**[45] Date of Patent: **Jul. 8, 1997**[54] **INSTRUCTIONAL GOLF MAT**

[76] Inventors: **Thomas A. Dionne**, 8806 Croydon Ave., Los Angeles, Calif. 90045;
Douglas W. Bokath, 1016 E. Edie Way, Lancaster, Calif. 93535

[21] Appl. No.: **332,960**[22] Filed: **Nov. 1, 1994**[51] Int. Cl.⁶ _____ **A63B 69/36**[52] U.S. Cl. _____ **473/278; 473/270**[58] Field of Search _____ **273/195 R, 195 A, 273/35 R, 187 R, 187 A, 187.1, 187.6, 202; 434/252; 473/278, 270, 279, 268, 266, 218**[56] **References Cited****U.S. PATENT DOCUMENTS**

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2,707,638 5/1955 Marley _____ 273/195 R

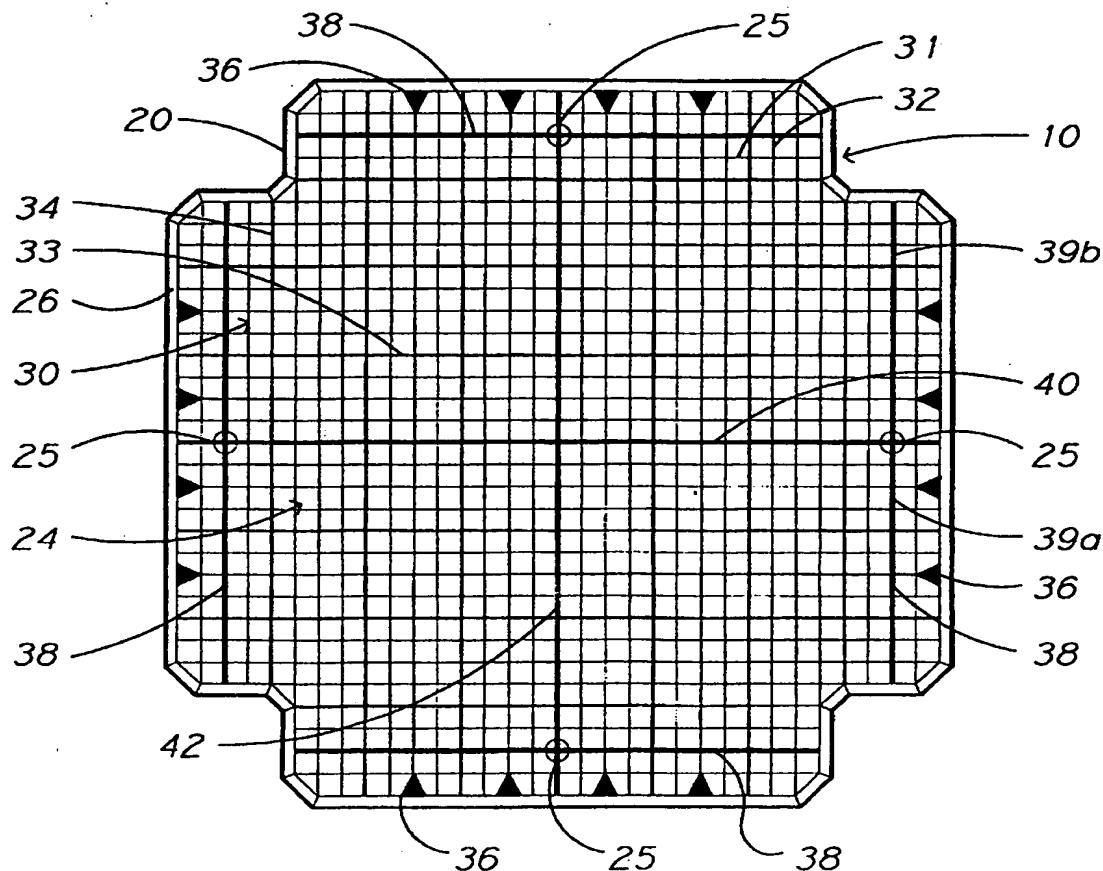
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*Primary Examiner—Steven B. Wong**Attorney, Agent, or Firm—Lyon & Lyon LLP*[57] **ABSTRACT**

An instructional golf mat which accommodates left and right-handed golfers, and which is useful for efficiently practicing the fundamentals of a golf swing including ball placement, foot position, golf club swing path and tee height is disclosed.

9 Claims, 9 Drawing Sheets**I**

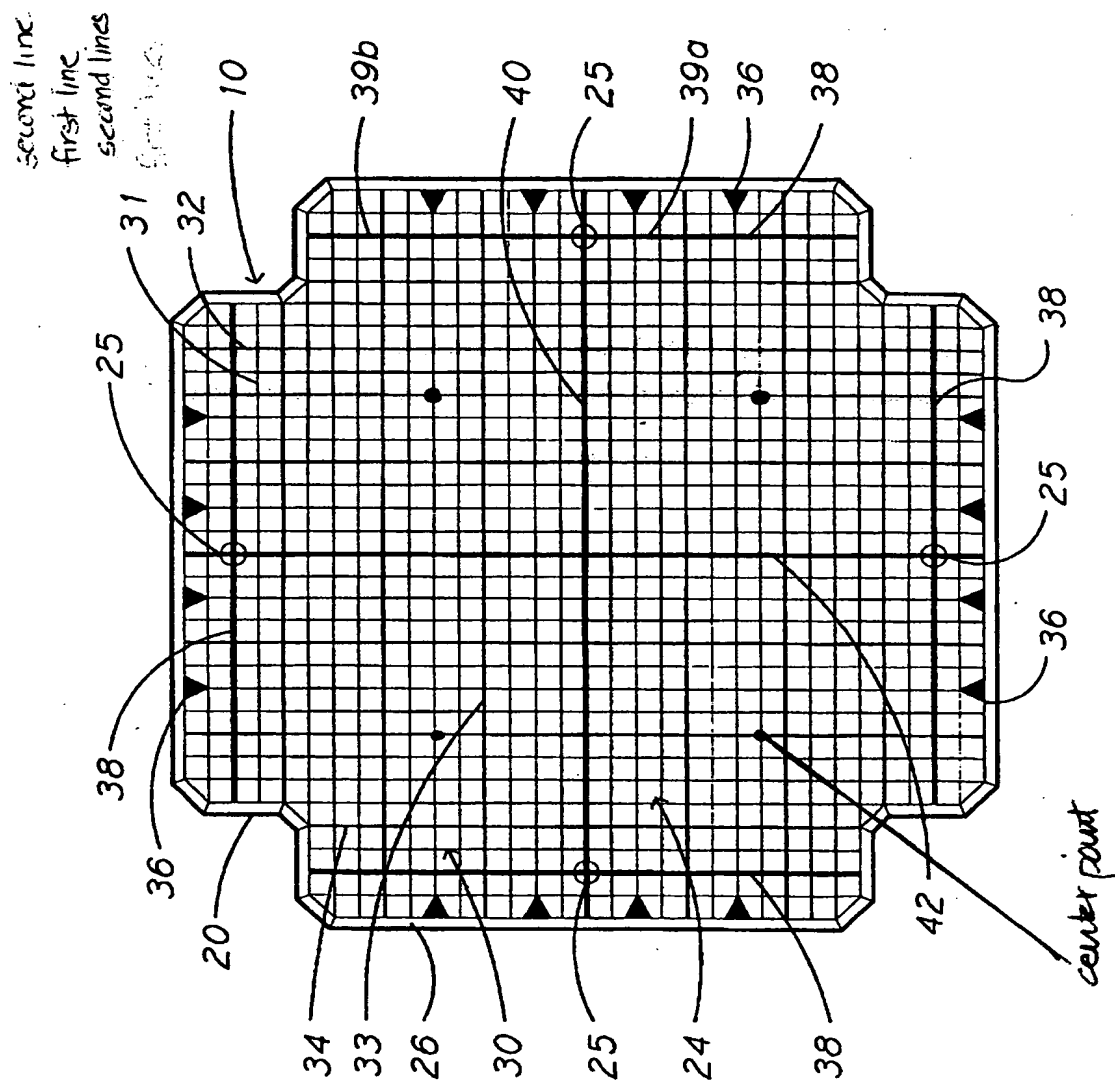
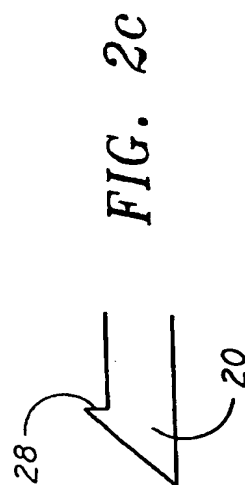
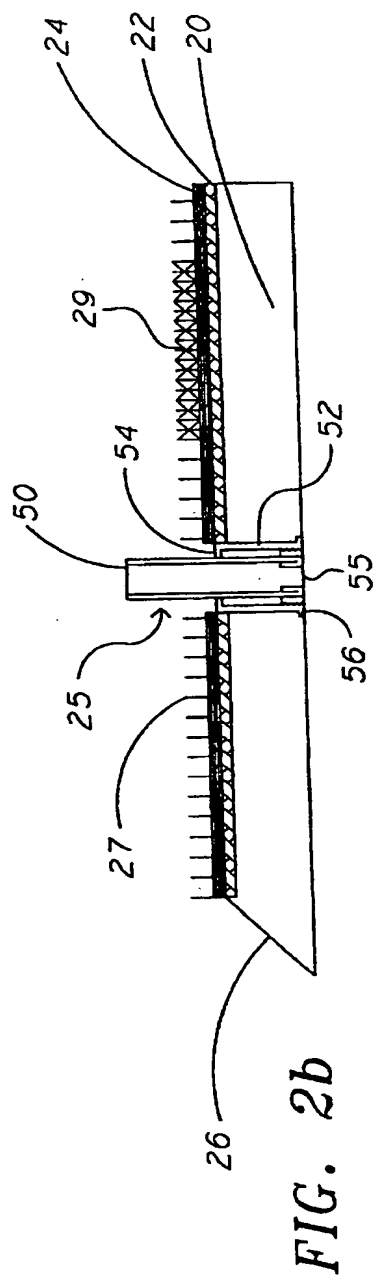
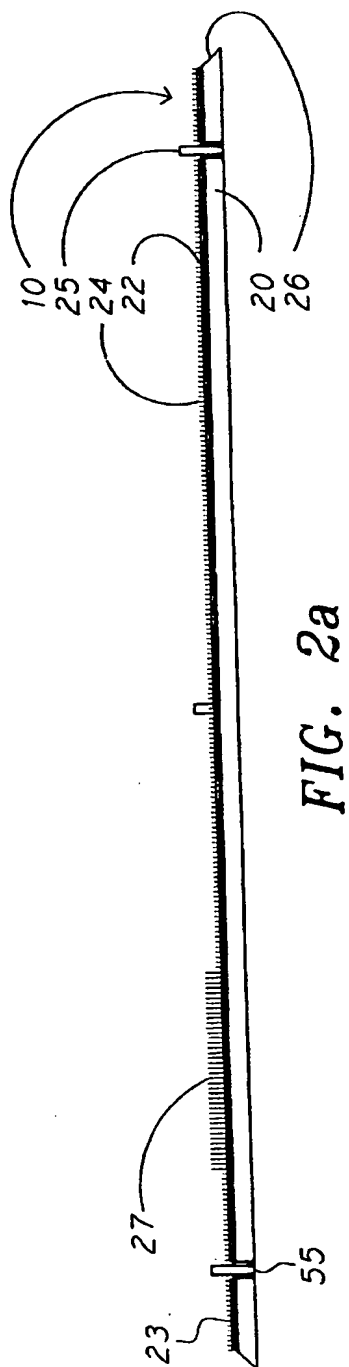


FIG. 1



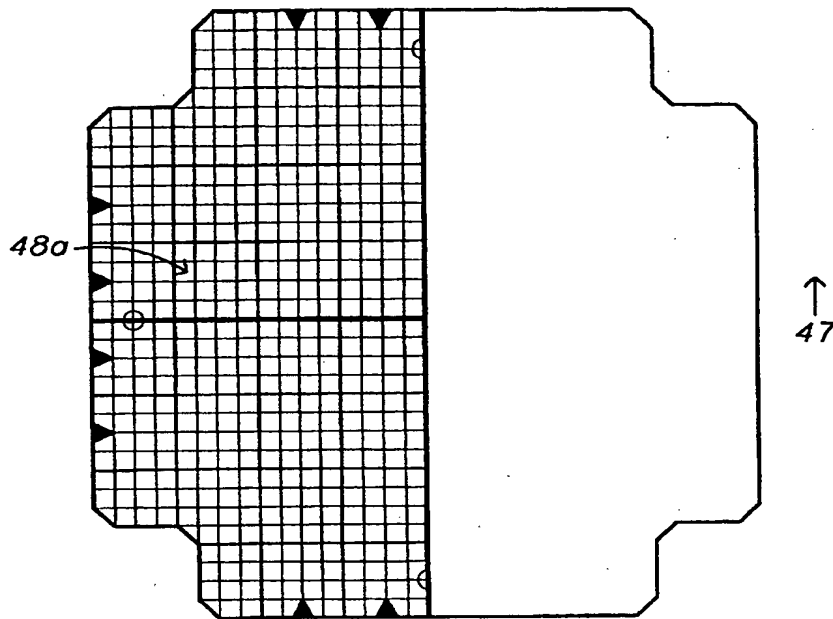


FIG. 3a

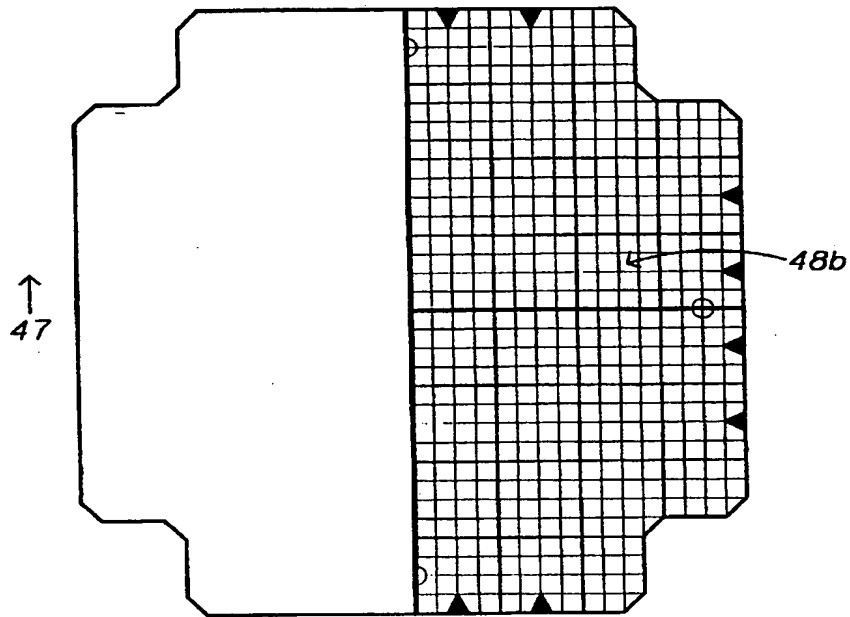


FIG. 3b

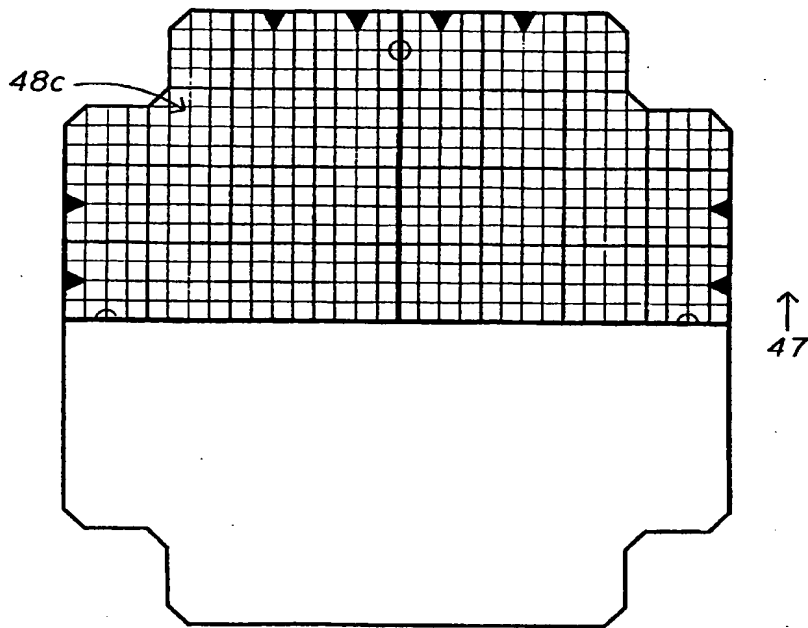


FIG. 3c

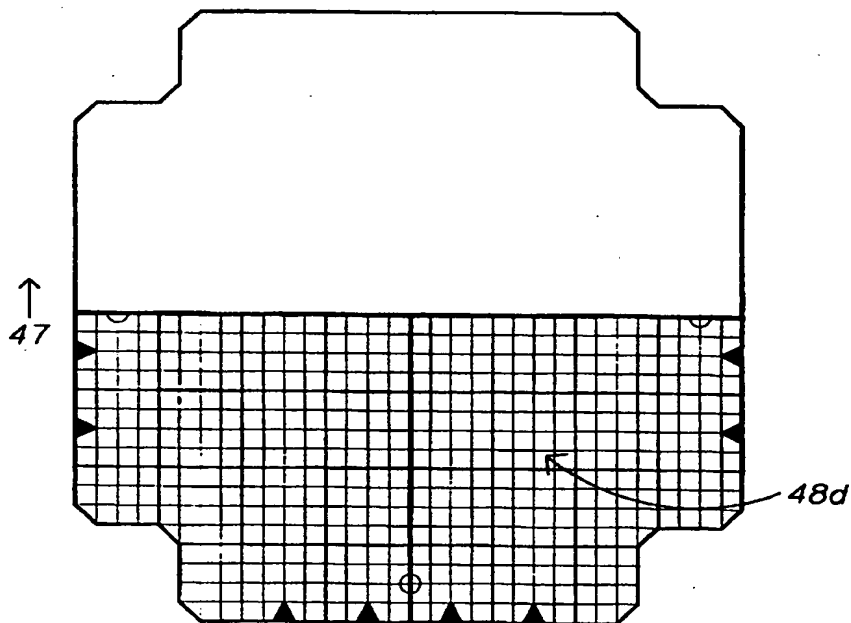


FIG. 3d

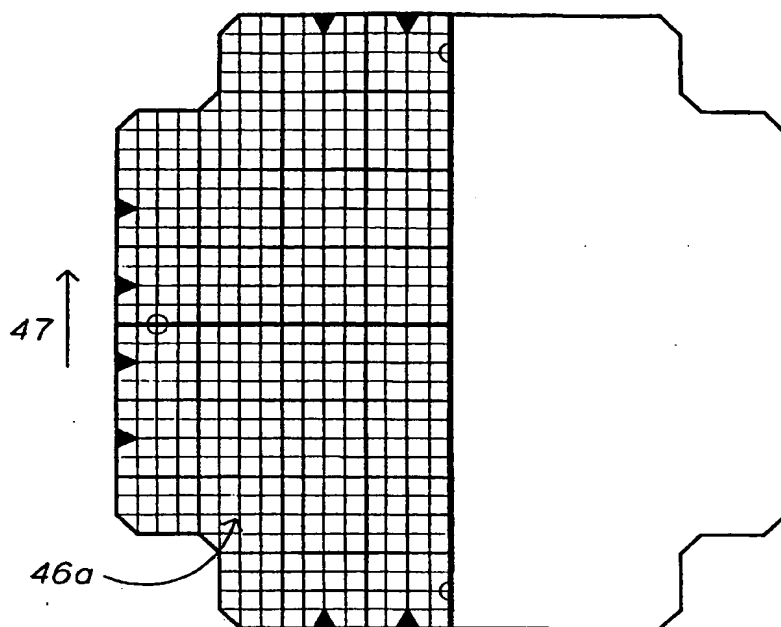


FIG. 4a

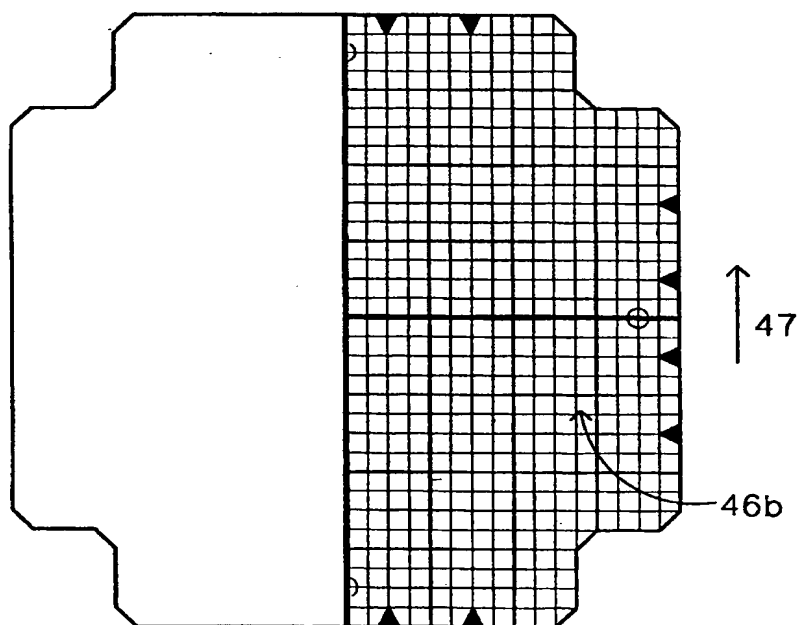


FIG. 4b

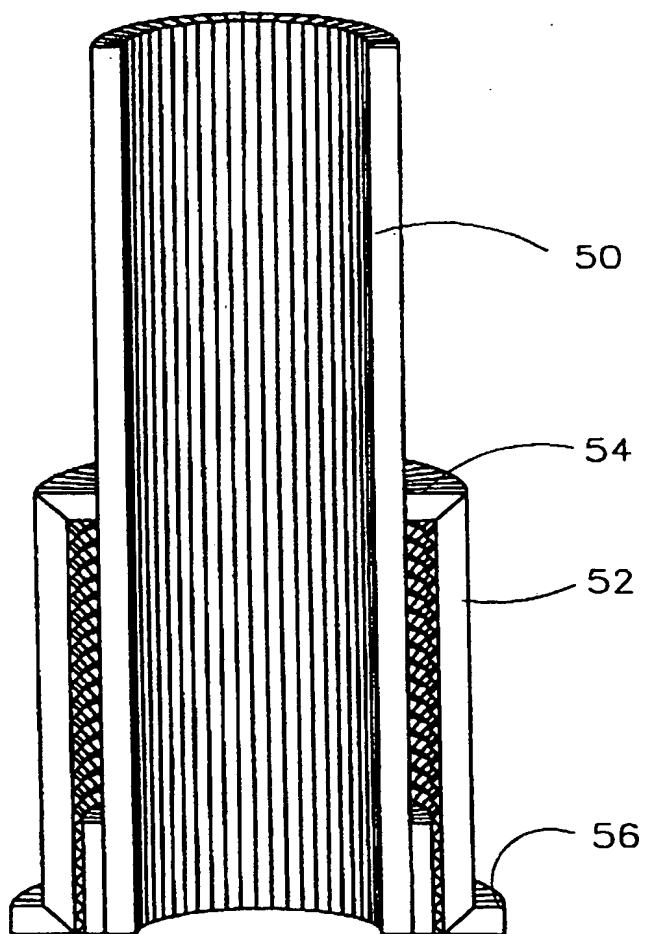


FIG. 5

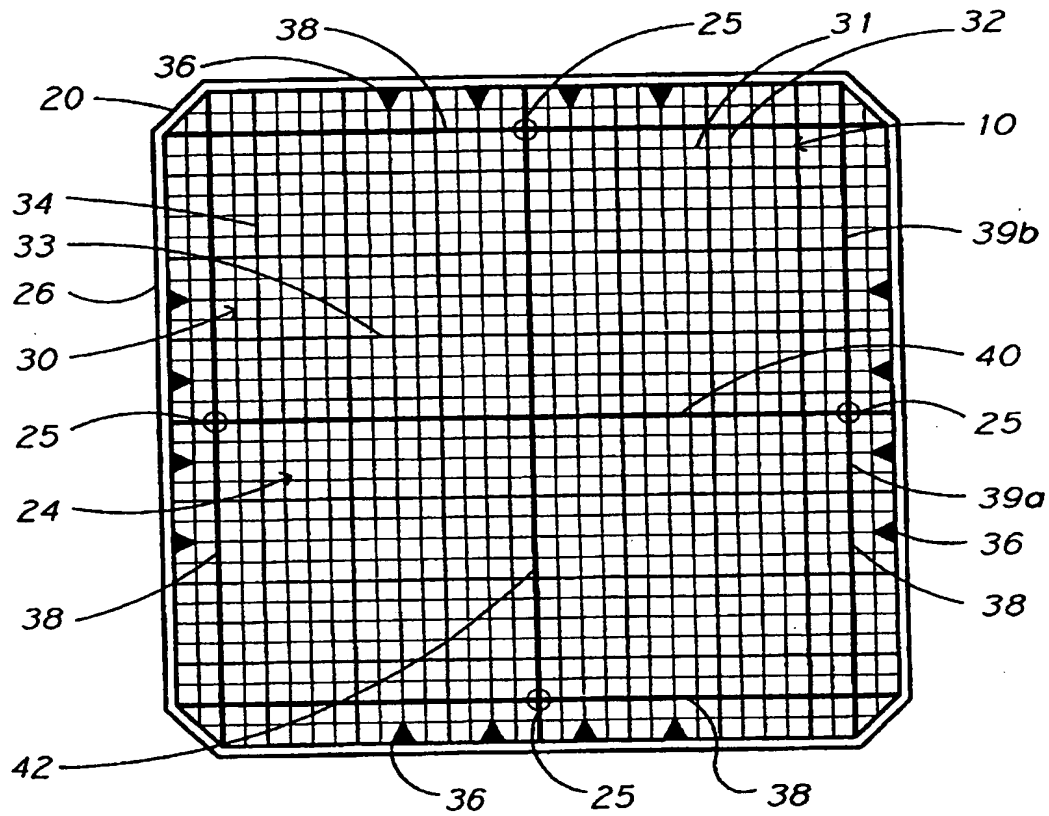
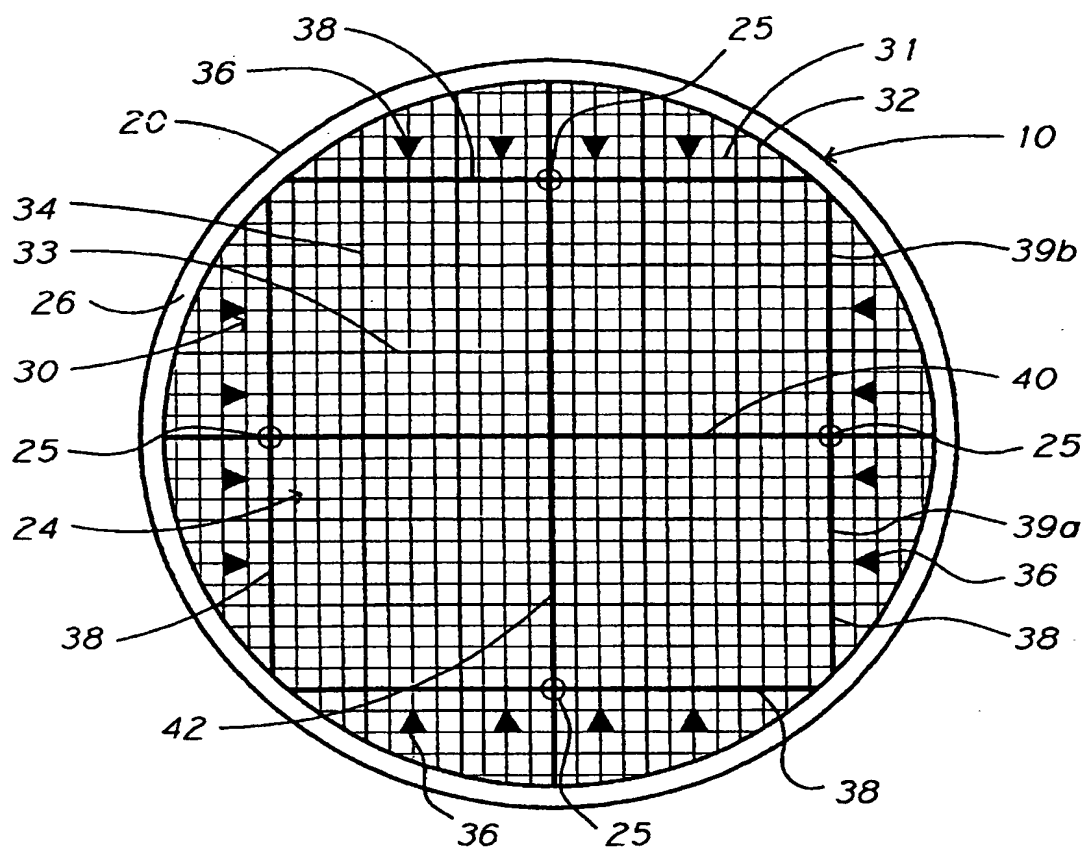
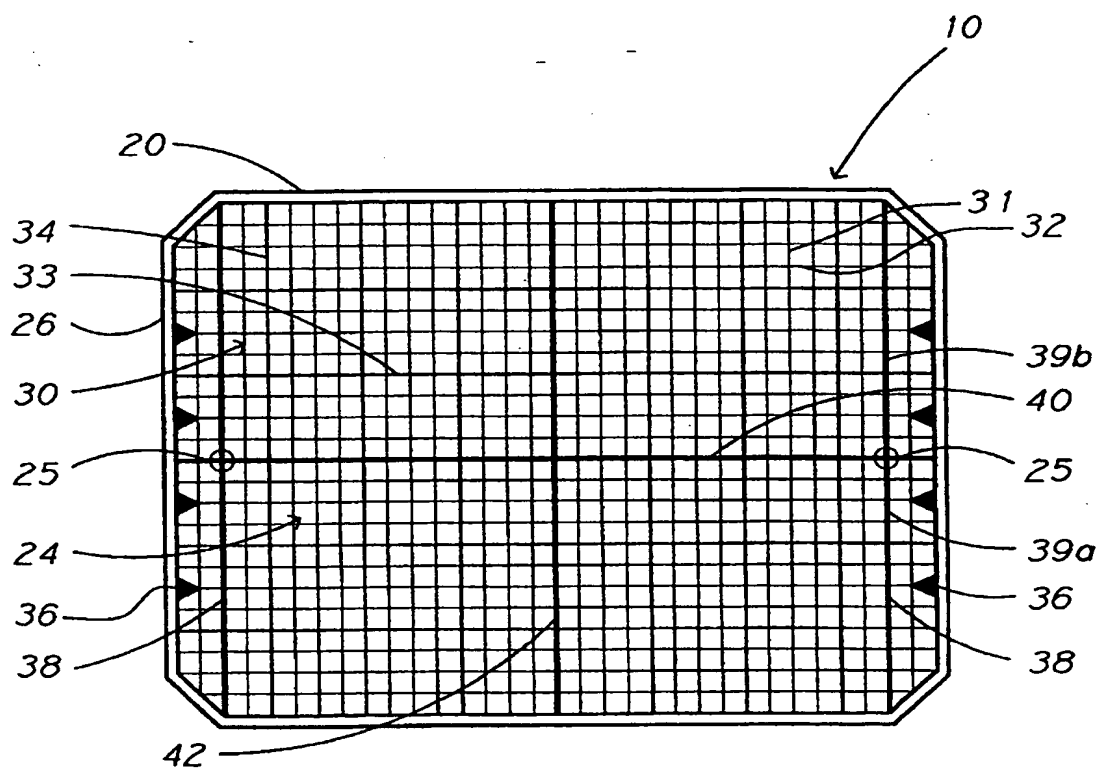


FIG. 6

**FIG. 7**

**FIG. 8**

INSTRUCTIONAL GOLF MAT

1. FIELD OF THE INVENTION

The current invention relates generally to the field of golf, and more particularly to instructional aids for improving a golf swing.

2. BACKGROUND OF THE INVENTION

As the game of golf has evolved over the last several hundred years, so too have the equipment, strategies and techniques used to play golf. Indeed, current golfers are inundated with all sorts of advanced, high-tech golf clubs and other equipment which are all aimed at lowering a golfer's score. Throughout time however, the pursuit of a proper golf swing has remained central to the game of golf. Accordingly, the advanced equipment available today is of little use to the golfer unless the golfer's swing is fundamentally sound.

To improve a golfer's swing, varying techniques addressing golf swing fundamentals have been suggested. For example, volumes of books, videotapes and other instructional aides offering techniques aimed at improving the golfer's swing are all available today. However, these instructional aides are of little help unless the golfer is able to apply them so that the suggested techniques such as stance, ball positioning and golf club swing path may be practiced repeatedly and properly.

A common drawback of many current instructional aides is that they are too complicated or require the presence of a golf professional or other instructor. Another drawback is that many instructional aides do not lend themselves for use at a driving range or other similar facility at which many golfers practice their swings. A reason for this is that many such aides include multiple components which require too much time to set up, which are too complicated to quickly learn how to use or which may be easily misplaced. Such aides are unsuitable for use at locations such as busy public driving ranges that typically attract young or otherwise inexperienced golfers.

While many driving ranges typically provide golf mats from which the golfer hits golf balls, such golf mats typically do not provide sufficient or any instructional aides whatsoever to help the golfer efficiently practice his or her golf swing. Furthermore, many existing golf mats wear out rapidly when repeatedly used in busy public driving ranges, do not accommodate left-handed golfers and/or do not provide a variable-height tee for use with different tee shots. Still further, many existing golf mats do not allow a golfer to experiment with different aspects of the swing such as stance so as to optimize the swing's efficiency.

For example, U.S. Pat. No. 5,071,130 to Shofner discloses a grid pattern for ball placement. However, the numbers and letters outlining the ball placement area and which serve to develop a "mental impression" of correct ball placement represent a complex manner in which to practice a golf swing that may distract the golfer. These indicia also do not aid in determining proper golf club swing path and Shofner's grid pattern does not include adequate reference points to allow the golfer to quickly position his or her feet and/or golf ball at the desired location. Furthermore, the Shofner mat has only one hitting area for both left and right-handed golfers which increases mat wear and decreases mat life. Shofner also does not include a tee which limits its use to irons and fairway woods.

As another example, U.S. Pat. No. 4,805,913 to Bott discloses a mat having a grid pattern to which foot silhou-

ettes are removably attached at desired stances. That the silhouettes must be repeatedly attached and removed for the various stances associated with different golf shots may consume too much time of a golfer's practice session, or may be too complicated for young or inexperienced golfers. Separable silhouettes may also be misplaced when repeatedly used by different individuals at a public driving range. The Bott mat also has no tee nor reference points to allow quick stance positioning, and exhibits only one swing path line which prevents the golfer from incrementally changing the ball position. The Bott mat is also suitable only for right-handed golfers and includes a swing path extension requiring excessive space that may render it unsuitable for many public driving ranges under space constraints.

Other existing instructional golf mats are disclosed in U.S. Pat. Nos. 5,163,686 to Bergman, 5,042,815 to Sutton, 4,355,810 to Rydeck, 4,248,431 to Burnes, 4,164,352 to O'Brien, and 4,000,905 to Shirhall. However, the mats disclosed therein are all limited to single hitting areas for both left and right-handed golfers which as described above, reduces the life of the golf mat. These mats generally do not provide safety features, and in fact, several include features protruding from the mat which if struck by the golfer, could cause injury.

Accordingly, there is a need for an instructional golf mat or system which allows a golfer to efficiently and properly practice the golf swing, which is suitable for use at a public facility and which generally overcomes the foregoing problems.

3. SUMMARY OF THE INVENTION

The current invention is directed to a convenient and economical instructional aide for practicing golf swing fundamentals to obtain a consistent golf swing for improved golfing performance.

4. BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a top view of an instructional golf mat.

FIG. 2a is a section view of an instructional golf mat.

FIG. 2b is an enlarged section view of a portion of an instructional golf mat.

FIG. 2c is an enlarged section view of a portion of a base.

FIGS. 3a-3d are top views of an instructional golf mat with a portion of a grid pattern removed to depict multiple hitting locations.

FIGS. 4a-4b are top views of an instructional golf mat with a portion of a grid pattern removed to depict hitting locations for left and right-handed golfers.

FIG. 5 is a cross-sectional view of an adjustable golf tee.

FIG. 6 is a top view of an instructional golf mat.

FIG. 7 is a top view of an instructional golf mat.

FIG. 8 is a top view of an instructional golf mat.

5. DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Referring to FIGS. 1, 2a and 2b, a preferred embodiment of an instructional golf mat 10 is described. As shown more clearly in FIGS. 2a and 2b, golf mat 10 may generally comprise a plurality of layers including a base 20, center layer 22 and top surface 24. Base 20 may include a beveled edge 26 which reduces the risk of a golfer tripping when stepping onto mat 10 which might otherwise occur since many golfers wear spiked shoes. Preferably, beveled edge 26 extends about the periphery of base 20 as shown in FIG. 1.

Base 20 preferably comprises a pliable material such as sheet rubber or recycled tires or other rubber molded into sheet form. The flexibility of such a material facilitates delivery to and placement of mat 10 at the driving range or other location at which it will be used. Preferably, the material comprising base 20 allows mat 10 to be rolled up during transport and also provides that it lay flat upon or shortly after placing the mat 10 at the desired location it will be used.

Base 20 preferably includes recess 28 adjacent to beveled edge 26 as shown in FIG. 2c so that center layer 22 and/or top surface 24 fit snugly therein without being permanently attached to base 20. This provides that the existing base 20 may still be used even if center layer 22 and/or top surface 24 need replacement. Alternatively, center layer 22 and top surface 24 may be mounted on top of base 10 and attached thereto with a suitable adhesive or other fastener.

Center layer 22 preferably serves a shock absorbing function to simulate the "giving" nature typical of a golf course fairway or rough, and to provide golfer comfort and safety. That is, should the golfer inadvertently swing the club so that it hits mat 10 with exorbitant force, i.e., significantly more force than associated with a typical divot, center layer 22 will absorb some amount of the resulting shock and may help reduce injury to the golfer's hands, wrist, forearms and/or elbows. This protection is beneficial given the high repetition in which a golfer may practice his or her swing on mat 10 in a given practice session, and/or the fact that young or otherwise inexperienced golfers may be using mat 10.

The shock-absorbing nature of center layer 22 also preferably extends the life of top surface 24 by providing a cushioning effect for the blows that may be delivered to top surface 24 by a golf club. This cushioning effect also preferably reduces or avoids cuts in top surface 24 that may be caused by golf clubs, especially irons. Accordingly, center layer 22 preferably serves a safety feature, as well as a preservation feature for top surface 24. Suitable materials for center layer 22 include a compressible material such as recycled rubber or padding used for carpeting or artificial playing fields.

Top surface 24 preferably includes an artificial turf surface or other material simulating grass on a golf course, and which is not easily cut by irons or other golf clubs. An example of a suitable material is ASTROTURF manufactured by AstroTurf, Inc. The material comprising top surface 24 may also include vertical fibers 23 such as those included in ASTROTURF. The fibers 23 of top surface 24 may vary in length 27 between different portions of top surface 24 to simulate fairway or rough conditions all on the same mat 10. Top surface 24 may also include a portion 29 comprising a material simulating sand for practicing sand trap shots. For example, a portion 29 of top surface 24 may comprise a brush type material into which a golf ball may sink when placed thereon. Alternatively, a sand trap simulation device comprising a series of woven netting layers such as that manufactured by Par Buster may be attached to mat 10. Alternatively, a portion of mat 10 may be recessed and filled with sand. For example, top surface 24, center layer 22 and base 20 may all include corresponding holes filled with sand for foot and ball placement. Top surface 24 also preferably includes a plurality of tee locations 25 and a grid pattern 30 as described below.

Referring to FIG. 1, grid pattern 30 may be sprayed, laminated or otherwise imprinted onto top surface 24. Grid pattern 30 may include horizontal lines 31, vertical lines 32, horizontal reference lines 33, vertical reference lines 34,

perimeter reference arrows 36, highlighted swing path lines 38, highlighted horizontal center line 40 and highlighted vertical center line 42.

Horizontal and vertical lines 31,32 form a pattern of squares which can be used to adjust the ball placement and foot positions in precise increments according to the type of club and shot being practiced. To this end, lines 31,32 may aid the golfer to precisely adjust his or her stance for "open" or "closed" stance shots used to intentionally slice or hook the golf ball. Alternatively, lines 31,32 also aid the golfer maintain a stance parallel to the direction of ball travel. A golfer may also use a column of the squares formed by lines 31,32 as a golf club swing path line to gauge whether the club is following a proper line of travel.

Grid pattern 30 may also be divided into larger squares by horizontal and vertical reference lines 33,34 which may act as references for foot stance, ball placement and swing path lines. Preferably, reference lines 33,34 are highlighted or otherwise bolder than lines 31,32 to help the golfer quickly identify his or her general location in relation to the more precise lines 31,32 so that the golfer may quickly assume the desired stance.

Grid pattern 30 may be further divided into four (4) sections by highlighted horizontal and vertical center lines 40, 42. The highlighting of lines 40,42 may be equal to that of lines 33,34 or even bolder. Center lines 40,42 serve several functions. First, they may serve as further stance alignment reference points so that the golfer may quickly identify his or her location with respect to the more precise reference lines 33,34 and lines 31,32 so that the golfer may quickly assume the desired stance.

Second, center lines 40,42 may serve to divide top surface 24 into two hitting areas 46a,b for hitting in target direction 47 as shown in FIGS. 4a and 4b to accommodate left and right-handed golfers. Because top surface 24 preferably includes separate left and right-handed hitting areas 46a,b, the life of mat 10 will be prolonged because one common area will not become worn out by both left and right-handed golfers. Furthermore, a left or right-handed golfer may step right onto mat 10 to practice without having to rotate or otherwise adjust the placement of mat 10.

Third, center lines 40,42 may divide top surface 24 into four (4) hitting areas 48a-d as shown in FIGS. 3a-3d. That is, by rotating mat 10, ninety (90) degrees, two (2) additional hitting areas are available. Typically for example, mat 10 will be positioned initially such that area 48a will be used by left-handed golfers and area 48b will be used by right-handed golfers to shoot in target direction 47. When areas 48a,b become worn, mat 10 may be rotated ninety (90) degrees so that fresh areas 48c,d may then be used. Also, because there are many more right-handed than left-handed golfers, mat 10 may be rotated one hundred eighty (180) degrees so that an area previously devoted to left-handed golfers may then be devoted to right-handed golfers. Accordingly, multiple hitting areas are possible which serves to increase the life of top surface 24 and of mat 10.

Grid pattern 30 may also include perimeter reference arrows 36 which may serve as reference points for foot stance and ball placement. Preferably, perimeter reference arrows 36 are located so that they divide the larger highlighted squares defined by reference lines 33,34 into two (2) equal sections thereby providing reference points equidistant to the highlighted horizontal and vertical reference lines 33,34. This in turn allows the golfer to quickly identify and assume the desired stance and ball placement with respect to the horizontal and vertical reference lines 33,34 and the more precise lines 31,32.

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Highlighted horizontal and vertical swing path lines 38 may be located two grid squares from the edge of top surface 24. Lines 38 are preferably parallel to the corresponding horizontal or vertical lines 31,32, reference lines 33,34 and center lines 40,42, as well as in line with a tee location 25. The parallel relationship between swing path lines 38 to the other lines of grid pattern 30 assures that a golfer's stance is square to the intended direction of the ball.

Swing path lines 38 preferably extend a significant length of a side of top surface 24 so that the golfer may gauge the direction of the club's swing path for a sufficient portion of the swing. This allows, for example, a right-handed golfer to bring the clubhead back along swing path line 38, and then swing the club first through point 39a, through the ball and then through point 39b to ensure that the club swing path is in line with the intended direction of the ball. Alternatively, swing path lines 38 allow the golfer to practice hook and slice shots by gauging whether the clubhead is outside or inside of the line 38 before and after hitting the ball.

Referring now to FIGS. 1, 2a, 2b and 5, the adjustable tee feature of the current invention is described. Preferably, mat 10 includes four (4) adjustable tee locations 25, each along a swing path line 38, along either center lines 40 or 42 and within each of the hitting areas 48a-d. This provides that tee locations 25 are integrated into grid pattern 30 so that the golfer may practice tee shots while varying his or her stance as desired.

As shown in FIGS. 2b and 5, each tee may include a tee section 50 which may comprise a rubber tube and which serves to hold the ball, and a collar 52 which may also comprise a rubber material and which secures tee section 50 to mat 10. Tee section 50 and collar 52 may threadably engage each other or be press fitted, and preferably provide vertical tee adjustment so that the golfer may screw or pull/push tee section 50 up or down relative to collar 52 to practice tee shots with the tee at various heights. This in turn allows the golfer to experiment with various tee heights for various clubs to determine which is optimum. This is beneficial because wood shots are typically hit with higher tees while the tee is typically lowered for iron shots.

As shown in FIG. 2b, base 20, center layer 22 and top surface 24 may include a hole 55 at each tee location 25 having an inner diameter which approximately equals the outer diameter of collar 52. Tee section 50 and collar 52 may be fitted in hole 55 and collar 52 may be glued to the walls of hole 55 by any suitable industrial adhesive.

As shown in FIG. 5, collar 52 may include a lip 54 on its top edge to prevent tee section 50 from being completely removed through the top of collar 52. As shown in FIGS. 2b and 5, lip 56 of collar 52 prevents collar 52 from being pulled through the top of mat 10.

Though one shape of mat 10 has been shown in FIG. 1, mat 10 may have different configurations and still offer the same instructional aides as shown in FIGS. 6-8 in which components similar to those shown in FIG. 1 are similarly numbered. For example, mat 10 may be square as shown in FIG. 6, round as shown in FIG. 7 or rectangular as shown in FIG. 8. FIG. 8 also shows an embodiment including only two hitting stations. Furthermore, grid pattern 30 may be set

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forth in various increments such as one-half, one or two inches between lines 31,32. Perimeter reference arrows 36 may be of different colors or at various locations as may each of the different types of lines discussed above.

Accordingly, it will be apparent from the foregoing that, while particular forms of the invention have been illustrated and described, various modifications can be made without departing from the spirit and scope of the invention. Accordingly, it is not intended that the invention be limited, except as by the appended claims.

What is claimed is:

1. An instructional golf mat, comprising:

a base; and

a top surface mounted to the base and including,

a first grid pattern comprising a plurality of intersecting lines at which a golfer may relatively position his or her feet and a ball, the grid pattern extending over substantially the entire top surface between the feet and ball positions,

a second grid pattern located within the first grid pattern and at which a golfer may relatively position his or her feet and a ball, the second grid pattern comprising selected intersecting lines of the first grid pattern which are uniformly-spaced and which are highlighted in relation to other of the lines of the first grid pattern, the second grid pattern extending over substantially the entire top surface between the feet and ball positions,

at least two hitting stations located at respective regions of the top surface, each hitting station being defined by a third grid pattern comprising highlighted intersecting lines, and

a plurality of golf club swing paths at each hitting station, the golf club swing paths being defined by the first and second grid patterns.

2. The instructional golf mat of claim 1, further comprising a center layer positioned between the base and the top surface, the center layer comprising a shock-absorbing material.

3. The instructional golf mat of claim 1, wherein the top surface further includes perimeter reference arrows located about the periphery of the top surface.

4. The instructional golf mat of claim 1, further comprising at least one tee located within the grid pattern.

5. The instructional golf mat of claim 4 wherein the at least one tee is adjustable in height.

6. The instructional golf mat of claim 5 wherein the at least one tee further comprises a collar positioned below the top surface and a tee section engaged to the collar.

7. The instructional golf mat of claim 6 wherein the collar and tee section are threadably engaged.

8. The instructional golf mat of claim 1, the top surface further comprising vertical fibers the length of which vary between portions of the top surface to simulate fairway and rough.

9. The instructional golf mat of claim 1, wherein a portion of the top surface comprises a material simulating sand.

* * * * *